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Published in January, 1907, by The Boston Book Company.

Address, 83 to 91 Francis Street, Fenway, Boston, Mass.

This paper is issued quarterly, to give information about American and foreign legal literature. We send it without charge to any book-buyer who asks for it.

CONTENTS.

Note that this number begins a new volume (3).

We have a few copies left of Vols. 1 and 2, which we can sell, bound in half roan, for \$2.00 per volume.

This is a review number for the year 1906. See Bibliographic Lists on pp. 10 to 15.

Graduates of the Harvard Law School will be interested in our announcement (p. 4) of a volume of Legal Essays by the late Prof. James B. Thayer.

Instructors and readers in Constitutional Law will welcome the announcement of a Hand-Book to State and Federal Constitutional Law, by F. J. Stimson, see p. 3.

New England Lawyers will find an interesting review of a new local book on p. 6.

ENGLISH RULING CASES.

The set of sets is E. R. C.

It is the only set of reports giving nothing but great decisions.

It gives the great decisions in full.

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Some sets of the "Reprint Edition," 26 vols. in 13, at \$78.00, remain unsold.

A supplementary volume (27) is in press.

The GREEN BAG (only \$4.00 per annum) is a monthly supplement to all text-books, digests, and cyclopædias.

It is a necessity of practice.

GREEN BAG ARTICLES IN 1906

Note the timely character of most of the articles; on topics widely discussed in the press. The authors are generally men of prominence and authority.

THE MOST IMPORTANT ARTICLES

AMERICAN JUDICIARY.....	January
THEORY AND DOCTRINE OF TORT.....	February
DEPARTMENTS OF GOVERNMENT.....	February
JUVENILE LAWS OF COLORADO.....	March
INSURANCE AS A COMMODITY.....	March
EXEMPTION FROM CAPTURE OF PRIVATE PROPERTY AT SEA.....	March
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WORKMEN'S COMPENSATION ACTS ABROAD.....	April
ARBITRARY SEARCHES AND SEIZURES.....	May
CLOSED SHOP CONTROVERSY.....	June
INTERSTATE MARITAL RELATIONS.....	June
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GOVERNMENT OF LAW.....	September
MULTIPLICITY OF STATUTES.....	September
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THOMAS H. BENTON	November
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Legal Bibliography

No. 1, VOL. 3, N. S.

BOSTON

JANUARY, 1907

STARE DECISIS CHALLENGED.

Every lawyer, and especially every judge, ought to read Brooks Adams's article on "The Modern Conception of Animus" in the January GREEN BAG. Starting with the proposition that "Law is not a science in itself . . . (but) expresses a resultant of social forces;" — and that those who "take refuge in precedent, supposing as the cause of each judicial decision some preceding determination . . . might equally reasonably attempt to deduce the prices which rule to-day from those which ruled in the last century."

— Mr. Adams holds that to comprehend the "weltering mass which we call the Modern Law" we must study social conditions, and note that in the course of history, "the law is regularly wrenched, more or less violently, from its logical path, to facilitate the rise of each new species of the competitive man" — king, ecclesiastic, noble, landlord, merchant, corporation, laborer, in turn.

Sentences quoted at random will indicate the trend of his argument, as follows:

"Each dominant class during its ascendancy uses such methods as conduce to its success."

"Abstract principles of eternal justice have had little to do with the development of our legal principles or procedure."

"The dominant classes have named the judges who have manipulated evidence, who have defined crimes, and who have made and interpreted precedents. They have also controlled legislatures and have passed statutes to effect their purposes."

"The rules of evidence were shaped to protect the strong and expose the weak."

"The old rules of evidence were so changed by the rise of a powerful moneyed class that all evidence has been made competent, calculated to hold a debtor."

"In modern times as the courts have formulated the law they have so burdened the plaintiff that human life is cheap, so cheap that it is cheaper than railway equipment."

"In periods of rapid change courts can follow no inflexible rules; they are creatures of circumstances, and must yield to the force which created and upholds them."

"That party will prevail before courts of justice whose cause embodies power rather than logic."

The article occupies 22 pages of THE GREEN BAG and abounds in pertinent illustrations. We commend it as interesting reading.

[Price of the January number 50 cents. Subscription for a year \$4.00 payable in advance.]

AMERICAN CONSTITUTIONS.

In May next we shall publish a volume which will interest all our readers both as lawyers and as citizens, and will be of special value to instructors of Constitutional Law and Civics in law schools or universities.

The author, Frederic J. Stimson, Professor of Comparative Legislation at Harvard University, and formerly counsel to the United States Industrial Commission, has the distinction of being a popular novelist, a publicist of high standing — and also of being the author of profound law books. This union of imagination, logical power, and the capacity for such minute dry hard work as was shown in Stimson's *American Statute Law*, is unusual and remarkable.

The first 134 pages of this latter work were devoted to an analysis and comparison, arranged under topical heads, of the constitutions of all states of the Union. The new work, to be entitled *A Hand Book to State and Federal Constitutional Law* will in part be based on that portion of Mr. Stimson's former work, but will also include a statement of constitutional principles from Magna Charta through the recognized constitutional documents to the latest constitution of Oklahoma.

The first part of the book will contain a general summary by the author, tracing the historical principles of American Constitutional law with a special discussion of those which remain most alive to-day; such as control the right of the Federal power to regulate the private rights and liberties of the people of the United States, and the right and limits of the power of a portion of the people to control the action of others, as in Labor Unions, Trusts, and Monopolies. The second part will present under the three broad principles of Rights of the Person, Rights of Property, and Rights to Law, a concise statement of all the propositions of all the American state constitutions in their latest development, including the corresponding principles of the Federal Constitution.

Division I. — Bill of Rights.

CHAP. I. CIVIL. Articles 1 to 10: Natural Rights. — Civil Rights. — Slavery and Apprenticeship. — Religious Rights. — Education. — Miscellaneous Rights. — Rights at Law. — Debtors. — Eminent Domain. — Citizens. Aliens, Language, etc.

CHAP. II. CRIMINAL. Articles 12 to 16: Rights before Trial. — Rights at Trial. — Rights after Trial. — Special Provisions concerning Criminal Offenses. — Pardons.

Division II. — Political Provisions.

CHAP. I. POLITICAL CONSTITUTION. Articles 18 to 29: Rights of Government. — State Sovereignty. — Constitution of The State Governments. — of Offices. — Qualifications for Office. — Elections. — The Right of Suffrage. — Disfranchisement. — Removal of Officers. — The Legislature. — The Executive. — The Militia.

CHAP. II. LEGISLATION, FORM OF. Articles 30 to 31: Process of Legislation. — Form of Revenue Bills.

CHAP. III. FINANCE. Articles 32 to 38: Appropriations. — Taxation. — Municipal Finance and Taxation. — Collection of Taxes. — State Debts. — Municipal Debts. — State and Municipal Ownership.

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CHAP. IV. LEGISLATION: CONTENT. Articles 39 to 54: General Provisions. — Land Laws. — Navigable Waters and Easements. — Personal Property. — Law of Persons. — Law of Corporations. — Railroads. — Banks. — Miscellaneous Corporations. — Municipal Corporations — Intoxicating Liquors. — Labor. — Novel Principles controlling Legislation in recent State Constitutions. — Initiative and Referendum.

CHAP. V. THE SYSTEMS OF JUDICATURE. Articles 55 to 60: The Courts. — Judges. — Remedial Laws. — Procedure.

CHAP. VI. GENERAL PROVISIONS. Article 99: Amendments to the Constitution.

So far as we know, this will be the first time that a text-book has been published presenting clearly in comparative form the substance of all our constitutions, state and national. The title might well be "American Constitutional Law," if that phrase had not been already appropriated by writers on the Federal Constitution.

Particulars as to size and price will be given in the April number of Legal Bibliography.

OUR "REFERENDUM."

In our October number we asked an expression of opinion from lawyers as to who should be appointed to the next vacancy on the Supreme Court of the United States, in view of proved legal ability and judicial qualities, aside from prominence in politics. If the response had been general we had intended to analyze and tabulate the vote, and try to determine whether a national reputation is possible for a lawyer who confines himself to practice and does not get publicity through participation in affairs outside of the law.

The answers received, while coming from such prominent lawyers, and from so many states, as to be representative, were not numerous enough to form the basis of a formal article, or of a table of comparative professional rank.

No judge or lawyer received more than about one tenth of the votes cast. The three favorites — the only ones who got anywhere near a tenth of the votes — were (in the following order):

WILLIAM H. TAFT, of Ohio.

ELIHU ROOT, of New York.

HORACE H. LURTON, of Tennessee.

It will be noted that the first of these made an excellent reputation as a judge, but owes his present prominence to participation in public affairs — the second, known as an able lawyer, has also come to national reputation in larger politics — while the third owes his votes only to proved legal and judicial ability.

The other lawyers and judges who received more than a scattering vote were:

ALTON B. PARKER, of New York.

CHARLES F. CHOATE, of New York.

U. M. ROSE, of Arkansas.

WALTER H. SANBORN, of Minnesota.

GEORGE GRAY, of Delaware.

PETER S. GROSSUP, of Illinois.

SIMEON E. BALDWIN, of Connecticut.

It is to be regretted that the response in this legal "Referendum" was not more general, and that the American Bar did not take this opportunity to place on record its opinion of the judicial aptitude of its leaders.

A NEW WORK BY JAMES B. THAYER

At the time of Professor Thayer's death he was preparing to publish a Treatise on Constitutional Law similar in its plan and general scope to his Preliminary Treatise on Evidence on the Common Law, and also a second volume on evidence following up the historical matter of the earlier volume by a statement of the existing rules of evidence and a collection of the authorities. His death prevented the fulfilment of both these plans, for his matter was not in such shape that it could be put into proper form by another hand. But this grave loss to the legal profession will be partly met, especially so far as concerns the subject of constitutional law, by the publication of certain of Professor Thayer's essays which are in available shape. In these essays are formulated some of the more important views which would have furnished the basis for his Treatise on Constitutional Law, just as his Preliminary Treatise on Evidence was based in large part on articles which had already appeared in the *Harvard Law Review* and elsewhere. Memoranda of Professor Thayer indicate that he was considering the publication of these essays in collected form before the completion of the treatises on which he was working. They include an examination into the Origin and Scope of the American Doctrine of Constitutional Law and discussions of various important topics in Constitutional Law, such as the legal tender question, the function of the court in rendering advisory opinions at the request of the executive or legislative, and the status of the new territorial possessions acquired by us as a result of the Spanish war; a careful analysis of the confused and different groups of exceptions to the hearsay rule which are ordinarily classed under the name of the *res gestae*; a discussion of the position of the American Indians under the law; an essay on the trial by jury of things supernatural; and other matters of interest to the student of legal institutions and legal history. While some of these essays were published in periodicals from time to time as they were written, others have had no permanent form and their collection and preservation will be a matter of much interest to legal scholars and the profession in general.

Further particulars in regard to a volume of these Essays on Constitutional Law, etc., to be published by the Boston Book Co., will be given in the April number of Legal Bibliography.

Advance orders are solicited.

For Every Library. — Garland's New England Town Law (\$6.50 — see page 6) is a book which ought to be in every library throughout the country, as a "Source-book" of American Municipal Law.

The Whole Law of New England Towns

NEW ENGLAND TOWN LAW

A Digest of Statutes and Decisions Concerning Towns and Town Officers.

By JAMES S. GARLAND.

IN this volume, for the first time, the *Town Law of the New England States* is presented for comparison, study, and reference, as a separate body of homogeneous law, different from the municipal law of the rest of the United States.

The plan of the work comprises an Introduction, and six divisions covering summaries of the statutes and decisions relating to towns and town officers in Massachusetts, Maine, New Hampshire, Vermont, Rhode Island and Connecticut.

The introduction treats of the origin and growth of town government; the relation of towns to state and county; their powers and duties; various forms of minor municipal corporations; taxation; debt limits; schools; poor-laws; the caucus and primary elections; and other phases and problems of town government.

The statutes of each state, with the decisions of the courts interpreting them, are separately abstracted, and arranged under the following principal heads:

Assessors, Boroughs, Caucuses and Primaries, Collectors, Constables, Elections, Fence Viewers, Health Boards, Highways, Highway Surveyors, Intoxicating Liquors, Jurors, Justices of the Peace, Libraries, Listers, Militia, Moderator, Overseers of the Poor, Paupers, Police, Pounds, Registrars of

Voters, Road Commissioner, Schools, School Committees, Selectmen, Street Railways, Supervisors of the Check-list, Taxation, Town Clerk, Town Council, Town Treasurer, Tree Warden, Trustees of Public Funds, Unorganized Towns and Gores, Villages, Village Districts, Voters, Ways, Weights and Measures.

Similarity of arrangement throughout the work facilitates comparison of statutes and decisions on any subject, and there is also a common Index to the Introduction and to the Statutes of the six states.

The value of this collection of statutes is evident. Questions as to the law of any state can often be solved, or at least illuminated, by reference to the statutes of other states, and to the decisions which construe them.

The work is thus a compilation of all the statutes and a digest of the pertinent cases, presenting in a convenient form for town officers, and for lawyers who have to advise them, *all the law there is on any topic of town government*.

The thoroughness of the editor's work may be inferred from the fact that 3540 cases are cited under the statutes they discuss. The abstract of laws and decisions is brought down to the year 1906.

GARLAND'S NEW ENGLAND TOWN LAW

*is a volume of 950 pages, bound either in law sheep or in cloth.
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"A SOURCE-BOOK ON TOWN LAWS."

[We quote the following readable review from the December, 1906, number of the Harvard Law Review.]

NEW ENGLAND TOWN LAW: a Digest of Statutes and Decisions concerning Towns and Town Officers. By JAMES S. GARLAND. Boston: The Boston Book Co. 1906. \$6.50

This interesting book on New England town law is of wider interest than its title would seem to indicate. As the author says (p. 83), speaking of the town: "a scheme of local autonomy which has proved itself so well suited to the genius of a great nation, and is so easily adapted to the changing needs of its people, deserves not only the highest praise as an instrument of government, but as an object of study challenges the best thought of students of political institutions."

Examination of the book will show that it is full of materials for the student of our political institutions. It is, so far as the writer knows, the first attempt to gather into one book the town laws of all the New England states, laws copied or imitated throughout the country wherever the town system has been adopted. It is therefore a source book on town laws. An introduction of 83 pages treats of the subject generally, giving an account of the formation of the first settlements in New England towns, townships, or more properly speaking, separate little colonies, by the union of which, under charters subsequently obtained from England, the New England colonies, afterwards states, were the result. In view of the prevailing tendencies of our courts of law to minimize the sphere of town power, it cannot be too strongly impressed upon all that these towns came first and the chartered colony came afterwards. There is no instance in New England of immigration of settlers bringing with them a charter with the intention of forming a colony in the sense of a state, but everywhere the immigrants formed separate little colonies or towns that by coalescence under some charter subsequently obtained from England formed, respectively, the colonies that later became the New England states.

In the history and the political development of these New England towns there is therefore sound historical foundation for the claim that within their own limited sphere, the towns enjoyed a certain limited sovereignty that has disappeared in the limited sovereignty assumed and accorded by the courts to the united colony that afterwards became the state. Mr. Garland does not profess to follow the steps by which the towns have lost their original inherent powers, and indeed the material for such a study does not exist in print. For the process was about completed when the success of the American Revolution gave to the states a legal prestige they had never had before. This process of loss of town power and of gain of colonial legislative power was going on from the beginning of the settlement of the country until the end of the Revolution, but no reports of the decisions of the courts on these questions are in print until the process was about completed at the time when the state constitutions and the United States Constitution were adopted. He who would study this subject must go back of the printed reports of decided cases, and if they are still preserved he must study the records of the unreported cases from 1620 to about 1790.

SUPPLEMENT TO E. R. C.

The SUPPLEMENTARY VOLUME (27) to ENGLISH RULING CASES WITH AMERICAN NOTES is progressing satisfactorily.

The editor, James T. Keen, author of Cases on Pleading, and Instructor in the Boston University School of Law, has laid aside his practice so as to push the work right through. His volume will not only be a presentation of the "Ruling" English Cases decided since the set was published, with very thorough American notes, but it will also be in some sense a review of the whole series, filling gaps and correcting errors. The many lawyers who rely on E. R. C. as their best help in difficult cases will welcome this volume, and those lawyers who have not yet bought the set will be spurred on to get it (while there is yet time) by the excellent editorial work of MR. KEEN.

We hope to publish Vol. 27, E. R. C., in March next. The price will be \$5.50 net. Book your orders in advance.

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The edition (unfortunately) is not stereotyped, and is practically exhausted. We had reached the end of the apportionment to the United States, but have managed to make up a dozen sets more, which are still available, at \$6.00 per volume.

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The books in this list are guaranteed to be perfect and in good condition inside, but the bindings of some items are shabby.

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Sheppard (Wm.). *Law of Common Assurances, touching Deeds in General (viz. Feoffments, Gifts, Grants, Leases)*. Folio. London. 1669. 7.50
[Sub title on p. 1, "An Exact Survey of Common Assurances; The Second Part. The preface explains that the First Part was lost in the rage of the late dreadful Fire."]

Silver Spring Bleaching Co. v. Wanskuck Co. Bill, Answer, etc. 2 vols. Providence, R. I. 1880. 4.00

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Legal Bibliography

No. 2, VOL. 3, N. S.

BOSTON

APRIL, 1907

INTERNATIONAL LAW.

We welcome with appreciation and enthusiasm, the first number (Vol. 1, — first quarter, January, 1907) of *THE AMERICAN JOURNAL OF INTERNATIONAL LAW*, organ of the American Society of International Law.

This first number is a very handsome royal octavo of 272 pages, with a supplement of 88 pages. The introduction "NEED OF POPULAR UNDERSTANDING OF INTERNATIONAL LAW," is written by the Secretary of State, Elihu Root.

THE LEADING ARTICLES ARE:

International Responsibility to Corporate Bodies for Lives Lost by Outlawry; by John W. Foster, formerly Secretary of State.

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Insurgency and Maritime International Law; by Prof. Geo. G. Wilson, Brown University.

The Doctrine of Continuous Voyages; by Hon. C. B. Elliott, Supreme Court of Minnesota.

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As this periodical is likely to get out of print soon, we advise our customers to subscribe at once. We will receive subscriptions at \$5.00 per year.

FOREIGN LAW.

Mr. Soule, president of The Boston Book Company, is to make an interesting trip abroad this summer. He has made sixteen trips to England, Ireland, and Scotland for our customers, who wanted Common Law books.

This year he searches a wider field. The increasing commercial relations between the United States and Europe — and the increasing influx of European immigrants to all parts of our country — are creating an interest in foreign law and a demand for foreign law books. Six libraries (Library of Congress, Harvard Law, Mass. State, N. Y. State, N. Y. Bar, and N. W. University Law), have already large collections of European law, but most law libraries have nothing at all in this line, — and little money to spare for it. But in the interests of the clients of the lawyers who use the libraries it seems necessary to begin to get the most essential works of the modern Civil Law, and we have had many inquiries as to what are the best editions of the Codes and the best works on Commercial law and the law of Inheritance of various countries.

How to answer these questions is our problem. It is comparatively easy to suggest how to spend ten thousand dollars, but hard to recommend five hundred or a thousand dollars' worth of books to cover all Europe. No one seems able to advise us definitely as to all countries, — and in order to do justice to our customers we must investigate the matter ourselves.

Mr. Soule will, therefore, start May 9 to visit the capitals of Spain, Portugal, Italy, Austria, Switzerland, France, England, Belgium, Holland, Norway, Sweden, Denmark, Germany, and make a selection in each country of the best books for use with us. For the larger libraries he will buy such reports, law periodicals, encyclopædic works, and treatises as round out and perfect their collections — but for most of our customers, who have little money to spend in this direction, he will consult the local authorities, and pick out the best, latest, and cheapest works in the following classes:

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AMERICAN CONSTITUTIONAL LAW.

We had hoped to publish in May, ESSAYS ON CONSTITUTIONAL LAW, by the late PROF. JAMES B. THAYER of Harvard Law School, but the work has been delayed, so that we will not try to publish it until October.

In September or October we also expect to publish the new work on AMERICAN CONSTITUTIONAL LAW which is being prepared by F. J. STIMSON, ESQ. — author of Stimson's American Statute Law and other well-known law books. It will be remembered by those who read our announcement in the January LEG. BIB. that this work will compare the constitutions of the United States and of all the individual states — thus treating American constitutional law as a whole — which has not been done before.

A CODE OF ENGLISH LAW.

The codification of the Common Law is developing gradually from individual initiative. Stevens Digest of the Law of Evidence may be said to have begun it for our generation. Pollock followed in his Law of Partnership: ENGLISH RULING CASES reduces all the law to rules; and other works have followed in the same path.

The latest step in this direction is JENKS' DIGEST OF THE ENGLISH CIVIL LAW, which is passing slowly through the press. Three parts have so far been published (at \$1.25 per pamphlet part), namely:

- (Part 1) BOOK I. General; by Edward Jenks.
- (Part 2) BOOK II, PART 1. Law of Contract (General); by R. W. Lee.
- (Part 3) BOOK II, PART 2. Law of Contract (Particular Contracts); by R. W. Lee.

Valuable and excellent, — so the *Annals of the American Academy of Political and Social Science* praises GARLAND'S NEW ENGLAND TOWN LAW (\$6.50).

Good U. S. History. — We commend the "History of the United States from the Constitution to the Civil War," 6 vols., \$13.50, by James Schouler, author of SCHOULER ON WILLS, SCHOULER ON EXECUTORS. He is as clear and sound in history as in law, — which is saying a great deal.

CONTENTS OF THE GREEN BAG.

Here is a table of the principal contents of THE GREEN BAG for the last three months.

Every number has, in addition, the two features which now make this magazine indispensable to lawyers — namely:

The Review of Law Reviews, a careful summary of notable articles in all other law periodicals, enabling the reader to keep in touch with all current legal discussion.

The Annotated Notes of Cases, in which the editorial corps of the West Publishing Company's Reporter System furnishes syllabi of the most notable cases in all the federal and state courts for the last month, with notes furnished by a corps of fifty expert writers on different branches of the law.

February Number.

MR. JUSTICE MOODY. Frontispiece with autograph. By Hon. Herbert Parker.

CONSTITUTIONAL ASPECTS OF EMPLOYERS LIABILITY LEGISLATION. By Ernst Freund.

THE BALTIMORE COURT HOUSE. Illustrated. By Gertrude B. Knapp.

THE MERCY OF THE COURT OF BURGOMASTERS. By Lee M. Friedman.

A QUESTION OF RATIFICATION IN INSURANCE LAW. By Frederic T. Case.

JAMES WILSON — NATION BUILDER. By Lucien Hugh Alexander.

March Number.

JAMES WILSON — NATION BUILDER. By L. H. Alexander. 6 illustrations.

MONOPOLY AND THE LAW. By Frank B. Kellogg.

THE IMPRISONMENT OF CRIMINAL CORPORATIONS. By Donald R. Richberg.

LITTLE JOURNEYS TO THE LEGAL PROFESSION. By Stanley E. Bowdle.

METHODS OF ASCERTAINING COST OF CARRIAGE. By John B. Daish.

SQUIRE ATTOM'S DECISIONS. By Herbert J. Adams.

April Number.

FREDERIC WILLIAM MAITLAND. Frontispiece with Autograph. By Gaillard T. Lapsley.

THE NEW CENTRAL CRIMINAL COURTS, LONDON. Illustrated. By Godfrey Pinkerton.

THE OPENING OF THE NEW CENTRAL CRIMINAL COURTS. By Percy A. Atherton.

SHOULD FEMALE MURDERERS BE HANGED? By Maynard Shipley.

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DIGESTS. Mew's Annual, 1906.

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AMERICAN LAW MAGAZINE, 6 vols. 1843-1846.
AMERICAN LAW RECORD, 15 vols. 1872-1878.
AMERICAN LAW REGISTER, 54 vols. 1852-1906.
AMERICAN LAW REVIEW, 40 vols. 1866-1906.
BRODIX'S AMERICAN AND ENGLISH PATENT CASES, 20 vols. 1754-1890.
CENTRAL LAW JOURNAL, 64 vols. 1874-1906.
CHICAGO LEGAL NEWS, 39 vols. 1869-1906.
COLORADO LAW REPORTER, 4 vols. 1880-1884.
COUNSELLOR, 5 vols. 1891-1896.
COURT OF CLAIMS REPORTS, DEVEREUX, and vols. 1-40. 1856-1906.
CRIMINAL LAW MAGAZINE, 18 vols. 1880-1896.
GREEN BAG, 18 vols. 1889-1906.
HARVARD LAW REVIEW, 19 vols. 1887-1906.
LAW QUARTERLY REVIEW, 22 vols. 1884-1906.
MICHIGAN LAW REVIEW, 4 vols. 1902-1906.
MONTHLY LAW REPORTER, 27 vols. 1838-1866.
NATIONAL BANKRUPTCY REGISTER, 18 vols. 1874-1882.
PACIFIC COAST LAW JOURNAL, 12 vols. 1878-1884.
RAILWAY AND CORPORATION LAW JOURNAL, 12 vols. 1887-1893.
SCOTCH JOURNAL OF JURISPRUDENCE, 35 vols. 1857-1891.
SCOTTISH LAW REPORTER, 43 vols. 1865-1906.
SOUTHERN LAW REVIEW, 11 vols. 1872-1883.
TREASURY DECISIONS, 45 vols. 1868-1906.
UNITED STATES JURIST, 3 vols. 1871-1873.
VIRGINIA LAW JOURNAL, 17 vols. 1887-1893.
WESTERN JURIST, 17 vols. 1867-1883.
WESTERN LAW JOURNAL, 10 vols. 1843-1853.

THE GREEN BAG, among all these sets, has been best indexed. It is included, not only in Jones's Index to Legal Periodicals, but also in Poole's Portrait Index, recently issued by the Library of Congress.

Legal Bibliography

No. 3, VOL. 3, N. S.

BOSTON

JULY, 1907

BIBLIOGRAPHICAL NOTES.

This number of *LEG. BIB.* is limited. It is designed primarily to be of interest to Law Librarians. If you should fail to receive a copy, we would be glad to receive advices as early as possible, so that your files will not become broken.

A limited number will be sent to those of the legal profession, whose names are on our list, and are likely to be interested in the information herein given.

THE HIGH COURT OF AUSTRALIA.

Commonwealth Law Reports.

Although the Commonwealth of Australia came into existence on Jan. 1, 1901, the High Court of Australia was not constituted until late in 1903. The date of the first reported case decided by the court is Nov. 6, 1903, and the fourth volume of the Commonwealth Law Reports is now current.

The new court is at least of equal dignity with the Supreme Court of Canada, which it resembles closely in its status and functions as a Federal Court of Appeal. The High Court of Australia is of greater interest and importance than is the Supreme Court of Canada, as the Canadian court has to deal with appeals from the Province of Quebec, where the English common law is not in force, consequently it is necessary to guard against the possibility of the decision being based on the civil or old French law which prevails in Quebec, and which may render the case inapplicable as a guide in a court which administers the English common law only.

Australia and its highest local court will continue to enjoy the pre-eminent position that they now hold, the Commonwealth being the only large group of the British dominions in which the system of jurisprudence is based entirely on the English common law.

On one point the High Court of Australia may perhaps be regarded as of somewhat higher status than the Supreme Court of Canada — the decisions of the court on questions relating to the constitutional powers of the Commonwealth and the states can only be reviewed by the Judicial Committee of the Privy Council after leave given by the court itself, the prerogative right of the

Crown in England to grant leave to appeal being abrogated on this point.

The principal decisions of the High Court may be roughly classified as decisions upon constitutional law and the general law relating to property.

In the sphere of constitutional law the court has not been engaged only in explaining the meaning of the Australian Constitution itself; the general theory of the modern state in its relations to individual members of the community has come under discussion, and judicial recognition has been taken of the wide difference between the theoretical rights of the Crown and the practical restriction of these rights by means of the legislation substitutes for the royal prerogative.

By clearly pointing out the distinction between matters of substance and matters of form, and by insisting in clear and express language on names having their real practical meaning assigned to them, or, if necessary, having another name substituted for an ambiguous one, the court has been clearing the way for an improved terminology in constitutional matters, which must eventually lead to clearer thinking.

The constitutional cases are of especial interest to American lawyers. The principle of our Constitution that the central government has only such power as is given it by the individual states is embodied in the Australian Constitution, and our Constitution and its interpretation by our Federal Supreme Court are held by the High Court of Australia to afford a proper guide to the interpretation of the Australian Constitution.

THE INTERPRETER:

or

Booke containing the Signification of Words.

Collected by John Cowell, and printed by
John Legate, at Cambridge,

1607.

This is a copy of the exceedingly scarce first edition, which was suppressed and burned, and the author imprisoned by the influence of Coke, on account of alleged dangerous doctrines under the titles, Subsidy, Parliament, King, Prerogative, etc. It is a work supposed to have been utilized by Shakespeare.

\$25.00.

COMMONWEALTH LAW REVIEW.

A collection of the legal literature of the Australian Commonwealth is incomplete without a set of the Commonwealth Law Review. This periodical was begun in Oct. 1903, and the fourth volume is now current.

The following are some of the original articles:—

Volume I.

Actions Against the Commonwealth for Torts.
Commonwealth Legislation and Judicial Interpretation.

Inter-state Service of Process.

Judicial Power of the Commonwealth.

Volume II.

Appeals on Matters of Federal Jurisdiction.
Criminal Law as affected by Commonwealth Legislation.

Federal Servants and State Income Tax.

Maritime Law and Jurisdiction in Australia.

Real Property Law in New Zealand.

Short Studies in the Common Law.

Should the State Full Courts be abolished.

The Judicial Power and Inter-State Claims.

Volume III.

A Defect in our Commercial Law and Federal Responsibility.

Law and Government.

Literary and Artistic Copyright.

Remedies for Personal Insult.

The Home of the High Court.

The Interpretation of Statutes.

The Union Label.

The Weakness of the Privy Council.

Most of the leading libraries in the United States have the Commonwealth Law Reports, but comparatively few have the Law Review. This periodical ranks with the Law Quarterly Review, the Juridical Review, the American Law Review, and the GREEN BAG, and should be secured while a supply is available.

The Boston Book Company can supply a limited number of sets (vols. 1-3, cloth binding) for \$15.00.

Hudson's Law of Building, Engineering, and Shipbuilding Contracts.

3d ed. London, 1907. 2 vols. \$15.00.

Delivered.

We are importing a number of copies of this work and will have them ready for delivery at an early date.

Nearly 500 pages of important cases, not reported elsewhere, are given, making the work more valuable than the ordinary text-book.

GILCHRIST'S BOROUGH AND SHIRE MANUAL.

1870.

GILCHRIST'S LOCAL GOVERNMENT MANUAL.

1875, 1879.

Text Books, not Reports.

In a check list of British Colonial reports recently issued by an English firm, we note under Australian reports:—

Victoria. Gilchrist's Decisions affecting Boroughs Shires and Districts, 1870.

The title of the book is the "Borough and Shires Manuals of 1870." It contains the "Boroughs and Shires Statutes." In an appendix, cases decided between Sept. 1861 and Jan. 1870 are referred to and in some cases fully noted. These cases are mostly abstracts of cases reported in full in the regular series of the Victorian Reports or in the Argus Law Reports.

The Boroughs and Shires Statutes were repealed by the Local Government Act of 1874. The author of the above named work, in 1875, published the Local Government Manual, which has since gone through several editions.

The notes to this refer to cases printed in the first named work, and to other cases as late as 1875. These cases are from the various series of Victorian reports or the Law Journal and Law Times Reports.

A supplement was published in 1879 containing decisions from April, 1875 to April 1878.

The author states in his preface that "an endeavor has been made, in the notes supplied with the Act, to assist its practical application by reference to cases containing decisions of the Law Courts of Westminster and of the Supreme Court of Victoria."

SCHOULER'S HISTORY.

A HISTORY OF THE UNITED STATES FROM

THE ADOPTION OF THE CONSTITUTION

TO THE CLOSE OF THE CIVIL WAR.

By James Schouler. (1789-1865.) (Revised edition.) Six volumes, 8 vo.,

cloth

13.50

The completion of the sixth volume marks the accomplishment of Professor Schouler's original plan of a History of the United States, from the beginning of its existence as a nation until the close of the Civil War. A few opinions of the history from high authorities are appended:

"The books have so established themselves as scholarly and attractive that it would be vain to compare them for the period treated with any other work in the field." — A. C. McLaughlin, Professor of History, University of Michigan.

CHECK LIST OF CEYLON REPORTS.

Regular Series.

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Marshall	1833-1836	1839
Morgan, Conderlag & Beling, 1833-1842		1862
Rama-Nathan	1843-1855	1884
Lorenz, 3 parts	1856-1869	1860-1871
Rama-Nathan	1860-1862	1880
Rama-Nathan	1863-1868	1881
Vanderstraaten	1869-1871	n.d.
Rama-Nathan	1872, 1875-1876	1890
Grenier, 2 vols.	1873, 1874, 1873, 1874	
Rama-Nathan	1877	1878
Supreme Court Circular, 9 vols.	1879-1891	1880-1892
Wendt	1881, 1883	1884
Ceylon Law Reports, 3 vols.	1889-1897	1892-1897
Supreme Court Reports, 3 vols.	1892-1894	1893-1896
Examiner Reports	1896	1898
Kock.	1899	1900
Browne, 3 vols.	1900-1902	1901-1903
New Law Reports, 8 vols. (Current)	1894-1906	1896-1906
Bala-Singham, 2 vols., (Current)	1904-1907	1905-1907
Tambyah, 5 vols.	1899-1906	1901-1907

(Issued in connection with the Ceylon Law Review.)

Collateral Series.

Bevee & Mills, "Legal Miscellany,"	1820-1867	
Austin	1833-1859	1862
Murray	1846, 1847	1848
Legal Miscellany (Morgan)..	1852	1853
Joseph & Bevee.....	1859	1863
Bevee & Siebel	1859-1863	1877
Creacy	1859-1870	1876
Crowther	1863	n.d.

Miscellaneous Reports.

Mutukisna's Thesawaleme, (Contains cases on special subjects, 1801-1860.)	1862	
Brito's Mukkuva Law	1876	
(Contains cases on native law.)		
Beling's Policy Court Cases; Part 1	1846-1862	1863
Part 2	1863-1868	1869
Grenier's Police Court Cases, (One part only.)	1872	1873
Solomon's Courts of Requests Cases, Fernando's Police and Courts of Requests Cases	1871	
		1878

Perera's Kandyan Cases.

("Vol. 2," being a companion volume to Austin's Kandyan Law.)		
Nell's Courts of Requests Cases	1845-1855	1856
Nell's Toll Cases		1858
Siebel's Estates Owner's Cases		n.d.
Sinnacutty's Maintenance Cases		1878
Lorenz, Namptissement Cases		1881
Lewis, Master & Servant Cases		1883
Sawyer's Digest of Kandyan Law		n.d.

(Contains cases on native law.)

The Boston Book Company bought from a retiring judge what is probably the most complete set of Ceylon reports in existence, certainly in the United States. An exhaustive study was made of the various reports to determine their values. As a result the above arbitrary list was made up. This list was afterwards submitted to Hon. Dodwell F. Browne, for twenty years a judge of the District or Supreme Court of Ceylon, and Hon. P. Rama-Nathan, late Solicitor General of that colony, and met with their entire approval.

Since this list was made up we have learned of a new volume of reports, entitled Leembruggen's Supreme Court Decisions, but, as yet, have been unable to obtain a copy, and cannot classify it.

Ceylon reports are becoming very scarce. There is a very limited supply available, and when this is exhausted, they will be practically unobtainable.

ENGLISH CHANCERY REPORTS, SUPPLEMENT

9 vols. \$65.00

Contains the following Vice-Chancellors' reports: Drury, 4 vols.; Drewry and Smale, 2 vols.; DeGex and Smale, 5 vols.; Smale and Giffard, 3 vols.; Giffard, 5 vols.; Kay; Kay and Johnson, 4 vols.; Johnson; Johnson and Hemming, 2 vols.; Hemming and Miller, 2 vols.; Holt's Equity, 2 vols.

Small Libraries not owning the English Reports, Reprint, now sold out, should secure this set, as the reports above mentioned were NOT reprinted in the English Chancery Reports, which are found in most small libraries.

We can supply a set of the English Chancery Reports, 69 vols., with the English Chancery Reports, Supplement, 9 vols., covering the chancery reports of England from 1821 to 1865, for \$135.00.

HAMILTON'S EAST AFRICA PROTECTORATE.

Law Reports.

The cases reported, covering ninety-six pages, illustrate the laws and customs existing in the Protectorate, and the practice and procedure of the Courts.

The volume contains two appendices (pages 97 to 160) giving notes on Native Laws and Customs, and certain orders in Council and Court Rules.

The laws administered in the Protectorate are varied:—Among Mahomedan natives in the dominions of the Sultan of Zanzibar, Mahomedan law, or the Sheriah as expounded by the Shafe's school of commentators; among natives in the rest of the Protectorate, native law and custom, provided it is not repugnant to justice or morality, and among all natives such Acts and Ordinances as are specifically applied to them; among non-natives, applied Indian Acts, local Ordinances and Regulations, and where these are inapplicable the Common and Statute Law of England existing at the time of the passing of the Order-in-Council, 1897.

In all, forty-five cases are reported.

Half calf, \$3.50.

ERCK'S ECCLESIASTICAL REGISTER.

This work published in Dublin, 1830, gives an account of the Ecclesiastical Establishment subsisting in Ireland.

It contains an appendix of 36 pages of cases of "quare impedit" or suits for recovery of the right of presentation to churches. These cases, numbering twenty, date from 1608 to 1825.

Outside of the cases, it contains no legal matter. This book is worthy of a place among the Irish Miscellaneous Reports.

We have one copy which we will sell for \$5.00.

FEDERAL ANTI-TRUST DECISIONS.

This set covers the cases decided in the United States Courts arising under, involving, or growing out of, the enforcement of the Anti-Trust Act of July 2, 1890 (26 Stats-at-Large, 209), including a few somewhat similar decisions not based on that act.

The work is prepared and edited by James A. Finch, under the direction of the attorney-general. We know that Mr. Finch is an able lawyer, a painstaking editor, and a man of accurate judgment, consequently recommend the purchase of the set, which is a library in itself, on the subject of Anti-Trust Law. 2 vols. Buckram. \$12.00. Delivered.

CONTENTS OF THE GREEN BAG.

Here is a table of the principal contents of THE GREEN BAG for the last three months.

Every number has, in addition, the two features which now make this magazine indispensable to lawyers — namely:

The Review of Law Reviews, a careful summary of notable articles in all other law periodicals, enabling the reader to keep in touch with all current legal discussion.

The Annotated Notes of Cases, in which the editorial corps of the West Publishing Company's Reporter System furnishes syllabi of the most notable cases in all the federal and state courts for the last month, with notes furnished by a corps of fifty expert writers on different branches of the law.

May Number.

James Wilson — Nation Builder. By L. H. Alexander. 3 Illustrations.

The Justification of Fair Competition. By Bruce Wyman.

Judicial Manners. By Ira Jewell Williams.

The Constitutionality of the Beveridge Child Labor Bill. By Edwin Maxey.

June Number.

Samuel Nelson. By Edwin Countryman.

The Origin of the System of Recording Deeds in America. By Joseph H. Beale, Jr.

Has Trial by Jury in Civil Actions been abolished? By William Hamilton Cowles.

Ancient Mortmain and Modern Monopoly. By Richard Selden Harvey.

The Abolition of Capital Punishment. By James H. Vahey.

July Number.

Thomas F. Marshall. By Charles Fennell.

The Equitable Life Assurance Society; A possible Remedy to Cancel the Stock Control. By Robert Rentoul Reed.

Pleading. By J. J. Godfrey.

The Protection of Unused Patents. By Paul Bakewell.

The Public Service Commissions Act. By Travis H. Whitney.

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 AMERICAN STATE REPORTS. Vol. 112.
 AMERICAN DIGEST ANNUAL. Vol. B. 1906.
 CYCLO. OF LAW AND PROCEDURE. Vol. 24.
 GENERAL DIGEST. New Series. Vol. 22.
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 Bk. 6.

UNITED STATES.

U. S. SUPREME COURT REPORTS. Vol. 204.
 CIRCUIT COURT OF APPEALS REPORT. Vol. 77.
 FEDERAL REPORTER. Vol. 150.

STATE AND TERRITORIAL REPORTS, ETC.

ALA. Reports. (Reprint Book 25.)
 ALASKA. Reports. Vol. 2.
 ARK. Reports. Vol. 79.
 Digest. Supplement to Crawford's.
 CAL. Reports. Appellate Court. Vol. 2.
 GA. Session Laws. 1906.
 ILL. Reports. Supreme Court. Vol. 225.
 Appellate Court. Vol. 126.
 IND. Session Laws. 1907.
 IA. Reports. Vol. 130.
 KY. Reports. Kentucky Opinions. Vol. 2.
 LA. Reports. Vol. 117.
 ME. Reports. Vol. 101.
 Session Laws. 1907.
 MD. Reports. Vol. 103.
 MASS. Reports. Vol. 192.
 MICH. Reports. Vol. 145.
 MINN. Reports. Vol. 98.
 MO. Reports. Supreme Court. Vol. 198.
 MON. Reports. Vol. 34.
 N. J. Reports. Equity. Vol. 60.
 N. Y. Reports. Court of Appeals. Vol. 186.
 Supreme Court. Hun. 115.
 Benjamin Annotated Cases. Vol. 17.
 Miscellaneous Reports. Vol. 51.
 OHIO. Reports. Supreme Court. Vol. 75.
 OR. Session Laws. 1907.
 PA. Reports. Supreme Court. Vol. 216.
 Superior Court. Vol. 31.
 District Court. Vol. 15.
 County Courts. Vol. 32.
 Lancaster Law Review. Vol. 23.
 TENN. Reports. Vol. 116.
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 Session Laws. 1907.
 VT. Session Laws. 1906.
 WYO. Session Laws. 1907.

CANADIAN LAW BOOKS.

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DOMINION.
 Reports. Supreme Court. Vol. 37.
 NOVA SCOTIA.
 Reports. Vol. 40.
 ONTARIO.
 Reports. Law Reports. Vol. 12.

BRITISH EMPIRE.

Reports Digest, etc., published since April 1, 1907.

ENGLAND.
 Reports. Law Times Reports. Vol. 95.
 Bankruptcy Reports (Manson). Vol. 13.
 IRELAND.
 Reports. Law Reports. 2 vols. 1906.
 SCOTLAND.
 Reports. Court of Session Cases. 5th series.
 Vol. 8.
 Scottish Law Review. Vol. 43.
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 Reports. Vol. 4.
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STONE.	Justices Manual 1907. 29th ed	25.9

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GARLAND'S NEW ENGLAND TOWN LAW must not be considered merely a text-book for lawyers. It is also a manual of law and custom for the town-officer and the citizen, and should be on the reference shelves of every library.

On the practical side it is a digest of the statutes and decisions of the New England States which relates to Towns and Town Officers. Its plan includes a General Introduction and six divisions, one for each state. The statutes of the states, with the decisions of the courts construing them, are abstracted, and grouped under the following principal heads :

Assessors, Boroughs, Caucuses and Primaries, Collectors, Constables, Elections, Fence Viewers, Health Boards, Highways, Highway Surveyors, Intoxicating Liquors, Jurors, Justices of the Peace, Libraries, Listers, Militia, Moderator, Overseers of the Poor, Paupers, Police, Pounds, Registrars of Voters, Road Commissioner, Schools, School Committees, Selectmen, Street Railways, Supervisors of the Check-list, Taxation, Town Clerk, Town Council, Town Treasurer, Tree Warden, Trustees of Public Funds, Unorganized Towns and Gores, Villages, Village Districts, Voters, Ways, Weights and Measures.

Similarity of arrangement throughout the work facilitates comparison of statutes and decisions on any subject, and there is also a Common Index covering the Introduction and the statutes of all the states. The work thus presents, in the most convenient form for town officers and citizens, *all the law there is on every topic of town government*.

On the side of Civics and Social Science this volume presents for the first time a complete view of that system of local government which has attracted so much attention from political and historical writers. The old Anglo-Saxon popular institutions survive in New England most distinctly and most vigorously ; and their working is an interesting study for the intelligent reader. To quote well-known authorities :

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American Constitutional Law Federal and State

F. J. Stimson

1907

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*Prof. James B. Thayer
Harvard Law School, 1873-1902*

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R. Campbell and J. T. Keen

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Legal Bibliography

No. 4, VOL. 3, N. S.

BOSTON

OCTOBER, 1907

THE LAW OF AMERICAN CONSTITUTIONS.

MR. STIMSON's forthcoming work on the Federal and State Constitutions is now in press. It will include a statement of constitutional principles from *Magna Charta*, through all the recognized constitutional documents, down to the latest constitution, — that of Oklahoma, and a historical view of important legislation embodying constitutional principles, from 1066 to the Railroad Rate Law of 1906.

It will be divided into three books.

Book I will contain a general summary, tracing the historical principles of American Constitutional Law with special discussion of those which remain most alive to-day, such as the right of the Federal power to regulate the private rights and liberties of the people, and the right and limits of the power of a portion of the people to control the action of others, as in Labor Unions, Trusts, and Monopolies.

Book II gives the history of legislation.

Book III presents, under the three broad principles of Rights of the Person, Rights of Property and Rights to Law, a concise statement of all the propositions of all the American State constitutions in their latest development, including the corresponding principles of the Federal Constitution.

The volume will include also two very interesting charts, one depicting graphically Federal and State powers, the other tracing constitutional principles through all the Constitutional documents from *Magna Charta* to the Federal and State Bills of Rights.

EVIDENCE IN ONE VOLUME.

In these days of four and six-volume text-books with correspondingly voluminous prices it is refreshing, reassuring, altogether worthy of praise and patronage to see a return to the good old one-volume days and low cost.

Such a gratifying reaction from extravagance is shown in the publication of a new edition of the old standard *BEST ON EVIDENCE*, always a favorite manual of principles for lawyer and student alike, with notes by Charles F. Chamberleyne, bringing it down to date, — not increased in size or cost but still in one volume, — at the very moderate price of \$3.50.

If you are getting, or recommending, a treatise on Evidence, encourage economy by selecting *BEST*.

EUROPEAN LAW AND LAWS.

In our April number we announced that our president would spend the summer abroad getting information in Continental Europe as to what foreign law books would be most useful to lawyers in this country, in view of increasing commercial relations, and of the interests of our immigrants, as well as of the study of comparative jurisprudence. Going abroad with generous advance orders from American libraries, and with excellent introductions, he was enabled to interest judges, professors and leading lawyers in his investigations, in Spain, Portugal, Italy, Austria-Hungary, Switzerland, France, Belgium, Holland, Denmark, Norway, Sweden, and Germany, and through their advice to get an insight into the essential law literature of these countries.

As a result of his investigations we now have, not only lists of the best European law books, out of the huge mass of literature listed in the catalogues, but also a business correspondent and good legal advisers, in each of the countries named. These connections will enable us to answer inquiries and fill orders for our customers. There seems to be a very general interest in European law and a wish to go gradually into such of its literature as may be most useful here.

We suggest to librarians interested in this matter grades of possible purchase, as follows:

I. Translations into English of foreign codes, etc. (There are not many of these.)

II. The Codes and Laws in force in the original, of these Countries represented in each Community by immigrants.

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VI. Histories of national law, work on the Conflict of Laws: Comparative Jurisprudence.

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cedure, Extracts from the Civil Code on Inheritance, Succession, Marriage, Divorce, etc.; Patent Law, Insolvency;— etc, etc. Price in cloth binding \$7.50, or to libraries entitled to remission of duties \$6.00.

FULL SET OF AUSTRIAN LAWS.

We have in stock a set of the laws of Austria from 1704 to 1902;— as follows:

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— 2a. Sammlung d. k. k. Verordn. u. Gesetze vom Jahre 1740-1780, die unter d. Reg. Joseph II. theils noch ganz bestehen, theils abgeändert sind. 8 Bde. u. Hauptelenchus. Wien 1786-87. 8. Hlwdb.

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Komplette, auberordentlich seitene Gesetzes Sammlung, wie sie fast niemals vorkommt. (Continued by Reichsgesetzblatt).

Reichsgesetzblatt für die im Reichsrathe vertretenen Königreiche und Länder. Jahrg. 1848-1902. Mit vollst. Register bis 1872 von Starr. 4. 51 uniforme Hfzbde. (1897-1903 br.)

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Law of the West-Goths.— We have for sale the remainder of the small edition published, of **THE LAW OF THE WEST-GOTHIS ACCORDING TO THE MANUSCRIPT OF ÆSKILL**, Lawman of Västergötland, Sweden, A.D. 1200. With Introduction and Explanatory Notes, done into English by **ALFRED BERGIN**, B.D., A.M., Ph.D.

Pamphlet 75 cents.

ESSAYS BY PROF. JAMES B. THAYER.

The many friends of the late PROF. JAMES B. THAYER, and the thousands of graduates who remember his scholarly and kindly teaching at Harvard Law School,— will welcome the publication of "Legal Essays," edited by his son, Ezra R. Thayer. As the Prefatory Note explains:— At the time of his death Professor Thayer was actively at work on a second volume on Evidence. This, as he said in the introduction to his "Preliminary Treatise on Evidence at the Common Law," was to be similar in form to the Preliminary Treatise, but "of a more immediately practical character, giving a concise statement of the existing law of evidence." He hoped to finish the book within a year, and he meant then to publish a single volume on Constitutional Law resembling the Preliminary Treatise in its form and general scope. He had collected much material for both books, but it was not in shape for publication, and to one who knew the standards which he set for himself, and his ceaseless labor in revising and perfecting his work, even when it seemed most complete, the attempt to shape his matter by another hand would be little short of desecration.

It appears from notes in his diary that he also had it in mind in the meantime to collect in book form some of the essays which he had prepared on many different occasions. The shape in which these were left makes this work possible after his death, and it is of special value from the fact that much of the material which would have gone into the proposed treatise on Constitutional Law may be found in these essays. Thus in a measure they preserve the fruits of his long and deep study of constitutional topics.

The collection contains the following Essays:

The Origin and Scope of the American Doctrine of Constitutional Law.— **Advisory Opinions.**— **Legal Tender.**— **A People without Law.**— **Gelpcke v. Dubuque; Federal and State Decisions.**— **Our New Possessions.**— **International Usages; A Step Forward.**— **Dicey's Law of the English Constitution.**— **Bedingfield's Case; Declarations as a Part of the Res Gestae.**— "Law and Logic."— **A Chapter of Legal History in Massachusetts.**— **Trial by Jury or Things Supernatural.**— **Bracton's Note Book.**— **The Teaching of English Law at Universities.**

Thayer's Legal Essay's are published in a cloth-bound volume uniform in size and style with the "Preliminary Treatise on Evidence," at the same price, \$3.50 net. An excellent portrait of Professor Thayer serves as frontispiece.

SUPPLEMENT TO E. R. C.

A Review of Recent Cases.

The SUPPLEMENT TO ENGLISH RULING CASES, by Robert Campbell, English Editor, and James T. Keen, American Editor, is now fully in type and will be published before January first.

The recent decisions upon most of the important cases are fully presented; and in cases where the doctrines of the subject discussed have been materially modified or changed by recent decisions, the old as well as the new theories are set forth.

Thus, in the law of interference with contract, cases adjudicated within the last few months have discredited decisions upon similar facts made within the past ten years. These older decisions in turn were when made regarded as themselves modifying still older rules of law. For example, in Massachusetts the very recent cases of *Berry vs. Donovan* and *Pickett vs. Walsh* seem to have discredited the slightly older cases of *May v. Wood* and *Rice vs. Albee*, which, when decided, were regarded as settling the law. So in England, *Allen vs. Flood*, decided in 1898, is practically nullified by *Quinn vs. Leatham*, and the line of cases which follow it.

The specific tort here mentioned was until recent times known as malicious interference with contract. Such decisions as *Walker vs. Cronin* and *Carew vs. Rutherford*, leading cases in Massachusetts, make malice the gist of the action. But the more recent cases eliminate malice as an element of the tort. Thus, in *Brennan vs. United Hatters of North America*, 73 New Jersey Law, Mr. Justice Pitney says: "In examining reported decisions in other jurisdictions we frequently find the question of malice discussed; malice being commonly treated as an essential ingredient of an action like the present. But malice in the law means nothing more than the intentional doing of a wrongful act, without justification or cause, *King vs. Patterson*, 20 Vroon 418, *McFadden vs. Lane* 42 Vroon 624, 630. And what is a wrongful act within the meaning of this decision? We answer, any act which in the ordinary course will infringe upon the rights of another to his damage is wrongful except it is done in the exercise of an equal or superior right."

The law of common carriers is dealt with in great detail, and their duties to their passengers, shippers, servants, and third persons are carefully analyzed.

Much labor has been bestowed by Prof. Keen upon questions of pleading. Settled questions of substantive law may be easily answered from the numerous encyclopedias and text-books which are at the hand of every practitioner; but just what

the plaintiff must allege in his declaration in order that it may be good on demurrer; just what evidence he must introduce to get to the jury; just how the plaintiff's *prima facie* case is to be met and overthrown, are questions which in many cases not adequately answered in any other modern work. Prof. Keen has gone beyond the substantive law to deal with the pleadings and evidence. For example, in his treatment of questions of interference with contract above referred to, he has determined what is the least amount of allegation necessary in an action of tort for interference with an existing contract; and in an action for prevention of contract. The bill in equity, and the indictment for the wrong are similarly treated. Prof. Keen then points out what evidence is necessary to support these several pleadings, and how this evidence may be met and overthrown. This is only typical of what has been done wherever necessity seemed to require. Thus, it has been worked out with extreme care in the law of common carriers, slander and libel, and the like.

The law of extraordinary remedies is dealt with minutely from the standpoint of pleading and evidence; the practice of the courts is set forth, and the various steps in the trial examined.

In short, the American notes have been designed, not only to deal with matters which may be found in any comprehensive work of similar nature, but to go beyond that and treat questions of procedure which are unanswered in other works, and for which lawyers until now have had to go (with few or no guides) to the digests and indices of the official reports.

Price of the Supplement \$5.50. (Set of ENGLISH RULING CASES, 26 vols. in 13, \$78.00.)

Bentham's Complete Works. — We have in stock a copy of the works of Jeremy Bentham, published under the Superintendence of his Executor, John Bowring," 11 vols., old half calf — Edinburgh 1843. The portrait of Bentham is slightly spotted with damp, but the set is otherwise in good condition. It has the book-plate of Robert Lowe, Viscount Sherbrook.

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5 Leg. Bib. N.S. 3

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BARGAINS IN THIS NUMBER.

We have issued about thirty numbers of Legal Bibliography, but never a number so full of bibliographical lists (see eight-page Bibliographical Supplement herewith), important announcements, and real bargains.

NEW BOOKS.

THAYER'S LEGAL ESSAYS, published January 15.

STIMSON'S AMERICAN CONSTITUTIONAL LAW, ready about March 1.

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The edition is a limited one, not electrotyped. The supply allotted to The Boston Book Co., as agent for the United States, was exhausted a year ago, and the edition (as we had previously warned intending subscribers) went wholly "out of print."

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Legal Bibliography.

No. 5, VOL. 3, N. S.

BOSTON, MASS.

JANUARY, 1908

PROMOTION.

The work of the Boston Book Co having grown too large for the immediate supervision of President Soule, Mr. F. E. Chipman (who has been manager of our Law Department), has been placed on the Board of Directors and appointed Managing Director. He will in future have charge of administrative details in all branches of the business.

THAYER'S LEGAL ESSAYS.

For twenty-eight years (1874 to 1902) James Bradley Thayer served as professor in the Harvard Law School. "No one can measure," says Dean Ames, "his great influence upon the thousands of his pupils. While at the school they had a profound respect for his character and ability, and realized that they were sitting at the feet of a master. In their after life his precept and example have been, and will continue to be, a constant stimulus to genuine, thorough and finished work."

In these years he gave so much time to teaching, and he was so thorough in his methods of study and work, that he accomplished little in legal authorship (so far as quantity is concerned) comparable to his influence as a teacher on his generation of lawyers. He compiled for the use of his classes excellent collections of Cases on Evidence and on Constitutional Law, and published a "Preliminary Treatise on the Law of Evidence," which gave him a reputation, both at home and abroad, as a legal historian and jurist of the first rank. He planned, but never finished, a practical work giving a concise statement of the existing law of Evidence, and a treatise on Constitutional law.

It appears from notes in his diary that he also had it in mind in the meantime to collect in book form some of the essays which he had prepared on many different occasions. The shape in which these were left makes this work possible after his death, and it is of special value from the fact that much of the material which would have gone into the proposed treatise on Constitutional Law may be found in these essays. Thus in a measure they preserve the fruits of his long and deep study of constitutional topics; and illustrate — to use the words of "The Green Bag" — "the excellent and cultured style, the charming modesty, the deep learning and vigorous thinking, which mark all that Professor Thayer has written."

The essays contained in this volume are:—

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[Legal Essays.—By James Bradley Thayer, LL.D., late Weld Professor of Law at Harvard University. One volume in cloth binding \$3.50 net.]

GRAPHIC CONSTITUTIONAL LAW.

One of the novel and interesting features of the forthcoming work on our State and Federal Constitutions, by F. J. Stimson, is the chart which serves as frontispiece to the volume. To quote the author's words:—

"The frontispiece graphically represents the exact division of political and legislative power between the States and the Federal Government, as well as the large field reserved by the Constitution to the people; and it does this even to the finer shades of distinction, as when powers delegated to the Nation are, at the same time, forbidden to the States, or when they are shared by the Nation and the States, or when nothing is said about it, so that the matter must depend upon the interpretation of the Supreme Court."

This is accomplished by an ingenious arrangement of zones, whose clear fields represent clear powers, while their intersections cover cases of doubt or conflict. The zones and their intersections are lettered and explained as follows:—

AZ.—*Federal Powers which are forbidden to the States.*

A.—*Powers granted to the United States simply.*

AB.—*Powers common to the Nation and the States.*

B.—*Powers reserved in the States simply.*

BX.—*State powers forbidden to the United States.*

X.—*Powers forbidden to the United States simply.*

Z.—*Powers forbidden to the States simply.*

ZX.—*Powers expressly forbidden to both the Nation and the States.*

Y.—*Rights reserved or expressly retained in the people.*

The author says: "If the reader of this book will take the diagram and carefully, for himself, decide (for on some clauses there may be a difference of opinion) just what sentences or sections of the Constitution, or matters or powers mentioned therein, fall within each of these nine divisions of our sphere of the total powers of government, he will almost, by the very study required, the close examination of the Constitution necessary, become a good American constitutional lawyer."

NOTES.

Great Charters and Laws.—An interesting feature of the forthcoming work by F. J. Stimson, *American Constitutional Law, Federal and State*, is the "Historical Digest of English Social Legislation," in which 150 of the laws which marked the evolution of constitutional liberty are abstracted and arranged chronologically.

Chancery Reports.—Have you on your shelves a set of the old "English Chancery Reports" first reprinted in America in 43 volumes, and finally extended to 69 volumes? If so, you need our recent supplement to this series, 29 volumes bound in 9 books, containing the Vice-Chancellors Reports omitted in the earlier reprint.

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United States History.—James Schouler, author of the standard treatises on Wills and on Executors is also author of an excellent "History of the United States from the Adoption of the Constitution to the Close of the Civil War, 1789-1865," in six volumes. Price in cloth, \$13.50.

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A necessity for successful practice.

Renton and Phillimore's Colonial Laws and Courts. London. 1907. Cloth. \$4.00.

A comprehensive sketch of the legal systems of the world, being the first volume (published separately) of a new edition of Burge's Colonial Law.

Jenk's Digest of English Civil Law. 3 parts. Paper. \$3.75.

Book I. General. 1905.

“ II. Pt. I. Contracts (General). 1906.

“ II. Pt. II. Contracts (Particular). 1907.

Barclay's Problems of International Practice and Diplomacy. London, 1907. Cloth. \$6.50.

With special reference to the Hague Conferences and other international agreements.

Bentwich's Law of Private Property in War. London, 1907. Cloth. \$1.80.

A treatise on the development of the International Law of War and Neutrality.

Hudson's Law of Building, Engineering, and Shipbuilding Contracts. 3d ed., London, 1907. 2 vols. \$15.00.

An excellent treatise on the duties and liabilities of engineers, architects, and surveyors.

Benjamin on Sales. 5th ed., London, 1906. \$6.50.

Few works have been so readily accepted and so universally used.—Baron Pollock.

Todd's Belgian Law. London, 1905. Cloth. \$7.50.

Translation of the Code of Commerce and Code of Procedure and selections from the Civil Code, with a Vocabulary of Phrases and Words.

We have received notice that a consolidated supplement to Mews' Digest of English Case Law will be published shortly. Better enter your order with us for an early copy. We are the United States agents for all of the above books.

NEW HAMPSHIRE SESSION LAWS.

November Session, 1803.

Heretofore we supposed that the laws for this session were printed in a pamphlet consisting of a half-title, title and pages 5 to 56, published at Concord, in 1804. At the Wait sale, two items covering the laws passed at this session were offered, that described above, and a reprint consisting of a title and pages 5 to 8. imprinted at Concord in 1803.

A comparison of this reprint with the other pamphlet showed that the reprint contained three acts that did not appear in the other. The librarian of the New York Bar Association called our attention to the fact that they had an original copy of this reprint, but that the pagination extended to page 16.

Through the kindness of Arthur H. Chase, Librarian of the New Hampshire State Library, we are now able to advise our readers of this matter. At the 1803 session a joint committee was appointed “to procure as soon as may be five hundred printed copies of the act directing that state and county officers shall be elected on the same day throughout this State, also of the act to establish the rates at which polls and rateable estate shall be valued in making and assessing direct taxes, and also of the act altering one of the terms of the Superior Court of judicature in the counties of Hillsborough, Cheshire and Grafton.” By the above authority the first signature, consisting of pages 5 to 8, was printed, but pages 9 to 16 were subsequently added, apparently without vote. It was afterwards voted that the laws “not al-

ready printed” should be published, and hence the printing of pages 5 to 56 not included above.

The check list of New Hampshire laws should be revised so as to read for 1803:—

1803. June. pp. 13.

November. pp. 16. Concord, 1803.

“ “ 56. “ 1804.

REPORTED DECISIONS OF ENGLISH COURTS.

The three most important sets reporting the current decisions of the English Courts are the English Law Reports, the Law Journal Reports, and the Law Times Reports. Each set is digested in Mews' Digest of English Law, and is cited in all modern English text-books.

The English Law Reports are published under the direction of the Council of Law Reporting. The series commenced in 1866, and a complete set to 1907 numbers some 300 volumes. The greater portion of these are out of print so that only secondhand sets can be had, and these are becoming scarce and the price is rapidly advancing.

The Law Journal Reports are published by a proprietary company. This series commenced in 1823, and a complete set to 1907 numbers some 200 volumes.

The Law Times Reports are also published by a proprietary company. The present series commenced in 1859, and a complete set to date consists of 96 volumes. A periodical called the Law Times commenced in 1843, the first 34 volumes of which contained reports of cases in addition to miscellaneous legal matter. These 34 volumes are cited as the Law Times Reports, old series.

About the same number of cases are reported in each series, during the year, though each set contains a few cases not appearing in the other two.

None of these are “official reports,” as the term is understood in the United States, there being no official reporter of decisions in England. The Master of the Rolls (May 21, 1887,) said:—“All reports made by gentlemen of the Bar and published on their responsibility, are equally regular. There is no superiority in the Reports of the Council of Law Reporting. Counsel are as much entitled to cite one as the other.”

The Law Journal Reports are popular, as would appear from the author's preface to the 5th English edition, 1906, of Benjamin on Sales, where the following appears:—

“The Editors wish to bear testimony to the *sustained excellence* of the Law Journal Reports, which they have consulted in all cases of difficulty, and upon which alone, in some instances, the statement of a case has been based. These Reports have been especially valuable in disclosing the distinction between similar cases, or the particular ground on which a decision was rested—matters which have been much facilitated by the practice of setting out the pleadings at length. Reference to these Reports has not infrequently been the means of clearing up obscurities which the other Reports had failed to dispell.”

EARLY ENGLISH TARIFFS, ETC.

[Carkesse (Charles).] “The Book of Rates.” A Collection of Law relating to the Customs, The Act of Tonnage and Poundage, etc., etc. Folio. London. 1726.

Supplement to the Same—1737.

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SUPPLEMENT TO E. R. C.**A Review of Recent Cases.**

The Supplement to English Ruling Cases, by Robert Campbell, English editor, and James T. Keen, American editor, is now in type.

The recent decisions upon most of the important cases are fully presented; and in cases where the doctrines of the subject discussed have been materially modified or changed by recent decisions, the old as well as the new theories are set forth.

Thus, in the law of **interference with contract**, cases adjudicated within the last few months have discredited decisions upon similar facts made within the past ten years. These older decisions in turn were when made regarded as themselves modifying still older rules of law. For example, in Massachusetts the very recent cases of Berry vs. Donovan and Pickett vs. Walsh seem to have discredited the slightly older cases of May vs. Wood and Rice vs. Albee, which, when decided, were regarded as settling the law. So in England, Allen vs. Flood, decided in 1898, is practically nullified by Quinn vs. Leatham, and the line of cases which follow it.

The specific tort here mentioned was until recent times known as malicious interference with contract. Such decisions as Walker vs. Cronin and Carew vs. Rutherford, leading cases in Massachusetts, make malice the gist of the action. But the more recent cases eliminate malice as an element of the tort. See Brennan vs. United Hatters, 73 N. J. Law.

The law of **common carriers** is dealt with in great detail, and their duties to their passengers, shippers, servants, and third persons are carefully analyzed.

Much labor has been bestowed by Prof. Keen upon questions of **pleading**. Settled questions of substantive law may be easily answered from the numerous encyclopedias and text-books which are at the hand of every practitioner; but just what the plaintiff must allege in his declaration in order that it may be good on demurrer; just what evidence he must introduce to get to the jury; just how the plaintiff's *prima facie* case is to be met and overthrown, are questions which are in many cases not adequately answered in any other modern work.

The law of **extraordinary remedies** is dealt with minutely from the standpoint of pleading and evidence; the practice of the courts is set forth, and the various steps in the trial examined.

In short, the American notes have been designed, not only to deal with matters which may be found in any comprehensive work of similar nature, but to go beyond that and treat questions of procedure which are unanswered in other works.

[Price of the Supplement \$5.50. (Set of English Ruling Cases and Supplement, 27 vols., \$108.00.)]

NEW ENGLAND TOWN LAW.

[Taken from **The Annals of the American Academy of Political and Social Science**, Vol. XXIX, No. 1.]

Garland, J. S. New England Town Law. Pp. xxxi, 894.

Price, \$6.50 net.

This valuable volume consists of two very distinct parts. The first eighty-three pages are taken up with an interesting review of the origin, development and present status of the New England town. Little that is really new to the student of municipal history is offered here, but the results of various detailed studies are presented in an attractive and concise manner. The most interesting portion of the study, especially to those not personally familiar with New England, is the description of the survivals of former customs and methods of organization, not only in the out-of-the-way country districts,

but even in some of the most progressive of New England municipalities.

The study of the communal holdings by the towns is also well done. How long these survived is a surprise to the average reader. It seems hard to realize that Boston Common was still used as a pasture in 1830, and that Plymouth, Salem and Sandwich still preserve remnants of their old communal lands, administered much as they were when they were originally established.

The second part of the book presents the first systematic compilation of the laws of the New England states in relation to towns and town government. The laws are grouped around the titles of the officers of the towns, and those of each state are arranged together. By these means the whole body of the law is rendered accessible to the reader, an advantage impossible through any other method because of the great mass and diversity of the statutes. Over three thousand five hundred references are given, citing the more important decisions given by the courts in cases under the various enactments.

THE COMPLETE LAW LIBRARY.

In the Harvard Graduates' Magazine for December, 1907, we find this statement of the features of the Harvard Law School Library in which the librarian and the professors take the most pride. They indicate the ideal of an American Law Library.

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 Central Law Journal, 64 vols. (Current.) 1874-1907.
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 (This periodical begins with vol. 3, in continuation of the Wayne County Legal News, 2 vols., folio, which was a real estate and financial bulletin.)
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 Michigan Law Review, 5 vols. (Current.) 1902-1907.
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 Property Lawyer, 15 vols. 1826-1830.
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We are the American agents for the **Law Quarterly Review** (\$3.00 per year), edited by Sir Frederic Pollock, which we believe to be the leading foreign law magazine. To substantiate our opinion, we take the liberty of quoting letter just received from Hon. Charles Nagel, of St. Louis.

"Enclosed please find my check for \$3.00, subscription for the Law Quarterly Review for 1908.

"In this connection permit me to say that I have found this to be a most valuable publication. Again and again, when questions have presented themselves, for the solution of which the usual publications seemed to afford no assistance, I have found a reference, comment or discussion in this publication that seemed to be made for the occasion.

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Blackstone's <i>Commentaries.</i> 1st edition. 4 vols. 4to. Oxford. 1765-1766	20.00	Kovalevky (M.). <i>Modern Customs and Ancient Laws of Russia.</i> Cloth. London. 1891	2.50
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— <i>The same.</i> 4 vols. 12mo. London. 1793 or 1800	8.00	Livingston (Edward). <i>Complete Works on Criminal Jurisprudence; with Introduction by Chief Justice Salmon P. Chase.</i> 2 vols. Cloth. New York. 1873	7.50
<i>This edition has portraits of Blackstone, Coke, Comyns, Fortesque, Foster, Gilbert Hale, Hardwicke, Holt, Littleton, Mansfield, Somers.</i>		London. <i>Historical Charters and Constitutional Documents, with Notes by an Antiquary.</i> 4to. London. 1884	3.50
— <i>The same.</i> Various editions published in London between 1790 and 1820. Each		Magna Charta: Historical Essay on, by Richard Thomson. Elegantly printed, with a different border to each page—composed of the emblems and devices of the signers of the Charter. London. 1829	7.50
Blaxland (George). <i>Codex Legum Anglicanarum: A Digest of English Law in the Order of the Code Napoleon.</i> London. 1839	4.00	Marvin (Wm.). <i>The Law of Wreck and Salvage.</i> Boston. 1858	3.50
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Code Napoleon; literally translated into English by R. S. Richards. London. [No date.]	7.50	Robinson (Conway). <i>Practice in Courts of Justice in England and the United States. ("New Practice.")</i> 7 vols. Richmond. 1854-1870	25.00
Coke (Sir Edw.). <i>The Second, Third and Fourth Parts of the Institutes of the Laws of England.</i> 4 vols. Rebacked. London. 1797	16.00	Robinson (Conway). <i>Practice in the Courts of Virginia. ("Old Practice.")</i> Vol. I. Courts of Law in Civil Cases, 1832; Vol. II. Suits in Equity, 1835; Vol. III. Criminal, Probate, etc., 1839; Vol. IV. Forms, 1841. 4 vols. Richmond	40.00
Colquhoun (P. McC. de). <i>Summary of the Roman Civil Law. Bibliography, History. Translation and Commentary.</i> Illustrated by Mosaic, Canon, Mohammedan, English, and Foreign Law. 4 vols. London. 1849-1860	12.00	Savigny (F. C. von.). <i>The Conflict of Laws.</i> Translated by Wm. Guthrie. Revised. Edinburgh. 1869	3.50
— <i>[A valuable work. The bibliography in Vol. I. is very comprehensive.]</i>		Savigny (F. C. de). <i>Traité de Droit Romain, traduit, par Guenoux.</i> 8 vols. Paris. 1855..	25.00
Crabb (Geo.). <i>A History of English Law.</i> London. 1829	3.50	Selden (John). <i>Opera Omnia, tam Edita quam Inedita.</i> . . . Recensuit David Wilkins (with life and fine portrait engraved by Vertue after Lely). 3 vols. in 6 parts. London. 1726.....	25.00
Dane (Nathan). <i>A General Abridgment and Digest of American Law; with supplement.</i> 9 vols. Boston. 1823-1829. (<i>Contains Massachusetts cases not elsewhere reported</i>)	27.00	Sullivan (Jas.). <i>History of Land Titles in Massachusetts.</i> Boston. 1801	5.00
De Antiquis Legibus Liber: Cronica Maiorum Londoniarum. Curante Thoma Stapleton. 4to. (Camden Society.) London. 1846	5.00	Symonds (Arthur). <i>The Mechanics of Law-Making, intended for Legislators, etc.</i> 24mo. London. 1835	1.50
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Grotius de Jure Belli ac Pacis, with an abridged Translation by Wm. Whewell. 3 vols. Cambridge. 1853	9.00	White (A. M.). <i>Outlines of Legal History.</i> 12mo. London. 1895	1.50
		— <i>[Sketch of English Courts and Legal Doctrines.]</i>	

THE TRANSVAAL LAW REPORTS.

History.

The first European settlers in this territory were emigrant Cape farmers, whose original destination was Natal, but upon its annexation to the English Crown some went to the country beyond the Vaal. This country eventually became the South African Republic, and so continued until 1877, when it became the Transvaal Province, under English rule. In 1881 it again became the South African Republic, and so continued until 1900, when it was formally annexed under a provisional administration, and became a part of the British Empire in 1902.

Law in Force.

The Statutes of Batavia of 1642 were adopted by the Dutch East India Company, and observed at all its stations, and were probably used in the administration of justice in the Dutch colony that was settled in South Africa in 1652. They were certainly used in the beginning of the eighteenth century. They were clear, but short, and therefore did not make precise provisions regarding many matters of daily occurrence. Towards the end of the seventeenth century, the laws for Dutch India were collected in one body, under the title of Statutes of India, and these, in 1715, were declared to be the law in South Africa. Where the laws might be found deficient, the courts were directed to recur to the civil law, except in those particulars where the Dutch law was not regulated by the civil law, when recourse was to be had to the law of Holland.

The Articles of the Republic, ratified in 1849, provided that for all cases not specifically mentioned, the Dutch Law, *i. e.* the Roman-Dutch law, should serve as a basis, yet upon a reasonable system and in accordance with the usage of South Africa. This giving rise to uncertainty, it was later provided that the work of Van der Linden should be the law book of the state, so far as it did not conflict with legislative enactments, and whenever that work did not treat any matter with sufficient clearness or altogether omitted it the common-places of Simon Van Leeuwen and the introduction of Hugo Grotius should be binding.

This system was kept in force after the annexation in 1902, when it was provided that "the Roman-Dutch law, except in so far as it is modified by legislative enactment, shall be the law in this Colony."

Check List of Reports.

Province. Kotze High Court Reports 1877-1881
South African Republic.

Kotze (Vol. I.) 1881-1884
Kotze and Barber (Vol. II.) 1885-1888
Barber and Macfadyan (Vols. III., IV.) 1889-1892
Hertzog 1893

Official Reports of High Court. 4 vols. . 1894-1897

Colony. Transvaal Law Reports. 10 vols. . 1902-1906

Bibliographical Notes.

Province Reports. This volume contains cases decided in the High Court of the Transvaal Province, reported by J. G. Kotze, during the period from July, 1877, to June, 1881. The first edition is said to have been published in 1885, though we have never seen a copy. A second and revised edition was published at Pretoria, in 1896.

During the last five years we have had our agents make a systematic search through South Africa for copies of this volume, but have only succeeded in finding four copies, one of which we now have on hand. When this copy of this very scarce book is sold we will probably not be able to procure another.

H. Rider Haggard, the author of "She," and other novels of South African adventures, was Registrar of this court from Aug. 3, 1877, to July 1, 1879.

S. A. R. Reports. The cases decided during the period from 1881 to 1892, by the Supreme Court of the Republic, were published at Cape Town between 1894 and 1904.

The cases for 1893, decided by the High Court, were reported by J. B. M. Hertzog and originally in Dutch. A translation by J. W. S. Leonard, revised by the Hon. J. G. Kotze, late Chief Justice of the South African Republic, subsequently Attorney-General of Rhodesia, and now Judge-President of the Eastern Districts Court in the Cape Colony, was published in London, in 1903.

The first three volumes of the Official Reports, covering the period from 1894 to 1896, were translated by Walter S. Webber, and revised by Judge Kotze. These are literal translations of the original "Officelle Reporten," the editors not thinking it advisable to revise them. These volumes were published in London in 1903.

Volume 4, covering the year 1897, was translated by Judge Kotze. The translator calls attention to the fact that in the High Court of the S. A. Republic the plaintiffs' summons stood in the place of a Declaration. This volume was published in London in 1907.

It is proposed to continue this series and translate all the later cases decided by this court until it went out of existence. We are advised that a fifth volume is well under way.

Transvaal Colony. Military rule was in force from 1900 until 1902. The Transvaal Law Reports are published in two series, one consisting of Supreme Court Reports, the other of the Witwatersrand High Court Reports. The Supreme Court consists of a Chief Justice and not less than three Puisne Judges, and sits at Pretoria. The Whitwatersrand High Court consists of one Judge, and sits at Johannesburg. It has concurrent jurisdiction with the Supreme Court, except as regards its appellate jurisdiction and power of review. The series is cited by year and court, the Supreme Court reports being cited: [1902] T. S.; the High Court reports, [1902] T. H. The Supreme Court reports for 1902 were reported by W. A. Macfadyan and B. A. Tindall; for 1903, by N. J. de Wet and A. J. Barry; for 1904, by N. J. de Wet and B. A. Tindall; for 1905, by B. A. Tindall, I. Grindley-Ferris and A. S. Benson; for 1906, by B. A. Tindall.

The High Court reports for 1902 were reported by Manfred Nathan; for 1903, 1904 and 1905, by I. P. van Heerden; for 1906, by G. Hartog and B. Amet.

These reports are compiled and arranged in an admirable manner, a list of cases and full digest with each volume making reference easy. They illustrate and are in fact an epitome of the Roman-Dutch law as administered in South Africa. The decisions also take into account Volksraad Resolutions of the old South African Republic, local ordinances, etc. In one or two of the cases reported points similar to those which have arisen in the American Courts have occurred, and in the main the decisions seem to be on the same lines; see *Cooper v. Government* (1906), T. S. 436, and *Liddell v. Government* (1906) T. S. 863.

Phipson's Natal Reports.—Can any one give us the bibliography of this book? A copy consisting of 48 pages has come into the market, but we have never seen it before and cannot find a copy by which to collate it.

THE JAMAICA LAW REPORTS.

Early in 1905 an announcement was made of the publication of a new series of the reports decided in Jamaica. In such announcement the publishers stated that the only reports that had hitherto appeared existed in the form of a selection of Judgments of the Supreme Court between the years 1866 and 1876, published in two volumes. It was proposed to publish the reports quarterly, for subscribers only, and no copies were to be kept on sale.

Volume 1, for 1905, was completed during the first six months of 1906. Part 1, for January to March, consists of 40 pages. Part 2, for April to June, consists of pages 41 to 69, the last page of the pamphlet being blank. Part 3, for July to September, consists of pages 70 to 113. In this part the page was, through the printer's error, numbered on the inside of the page. The last part consists of pages 117 to 137, followed by the digest, beginning with page XIII. and running to page XX., with page eighteen wrongly marked XXIII. With this part appeared a title page; a list of judges and law officers; a table of cases to part 4 only; a table of cases cited in the complete volume, consisting of four pages, the last three of which are numbered X to XII.; a statement of the mode of citation; a list of cases reported in the complete volume.

The case ending on page 113 began on page 106, and the table of cases reported shows that the next case began on page 117, showing that there were no pages numbered 114 to 116.

This volume was printed by a local company, not experienced in law publishing, apparently, which accounts for the very crude way in which the work was done.

1906.

For 1906, two parts only have been issued — Part 1 covers the decisions reported from January to March. This part reports three cases and the pagination runs from pages 5 to 16. The part contains a table of cases which states that the case beginning on page 5 is reported on page 1, and that the case beginning on page 6 is reported on page 2. There is a title page to this part.

Part 2 covers the decisions reported from April to June. This part reports five cases, and the pagination runs from pages 21 to 45. The gap between pages 17 and 20 is supplied by a title page, a statement of the mode of citation, a table of cases, and a blank page.

The earthquake and fire occurred before the third part was issued. Since then we have written several times to the publishers asking for information, but have received no reply. We are now forced to the conclusion that the publication has suspended.

We secured the small remainder of the reports for 1905, and the publishers sent us a corresponding number of both parts for 1906. We believe that we have the only available supply. For the present we will supply this set for \$15.00, and would suggest that orders be sent to us without delay. This new series bids fair to become as scarce as the remainder of the Jamaica Reports.

THE MOSAIC LAW.

We have for sale a singular law book in the shape of a "Pentateuch Roll," such as is used for expounding the Mosaic law in the Jewish Synagogues of Europe.

It is a parchment Hebrew manuscript of uncertain age, about 100 feet long, rolled on a cedar wood rod, with silken covering.

A similar Roll was offered for sale in London recently for five thousand pounds, with no takers. Our price is more moderate. It has been appraised by good authority at \$100, and that is our price.

THE LAW OF AMERICAN CONSTITUTIONS.

Mr. Stimson's forthcoming work on the Federal and State Constitutions will be published in February or March. It will include a statement of constitutional principles from Magna Charta, through all the recognized constitutional documents, down to the latest constitution—that of Oklahoma—and a historical view of important legislation embodying constitutional principles, from 1066 to the Railroad Rate Law of 1906.

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Book II gives the history of legislation.

Book III presents, under the three broad principles of Rights of the Person, Rights of Property and Rights of Law, a concise statement of all the propositions of all the American State constitutions in their latest development, including the corresponding principles of the Federal Constitution.

The volume will include also two very interesting charts, one depicting graphically Federal and State powers, the other tracing constitutional principles through all the Constitutional documents from Magna Charta to the Federal and State Bills of Rights.

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When the young lawyer opens an office, before he buys his own state reports, or an encyclopædia, or text-books, he needs *Bouvier's Law Dictionary, Rawle's Revision*, (2 vols., \$12.00,) for two reasons:

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The wise judge has a copy of *Bouvier* on a shelf under his desk, in which to test the claims and citations of conflicting counsel.

Whoever lacks *Bouvier*, lacks books!

THE GREEN BAG FOR 1907.

Below we give a list of the principal leading articles in *The Green Bag* for the year 1907.

In addition to these interesting contents, each monthly number had humorous and editorial matter, and two very practical features, through which subscribers are enabled to keep up with the very latest literature of their profession, namely: **Current Legal Literature**, in which new books are reviewed, and the most notable articles in American and foreign law journals of the previous month are abstracted; and **Notes of the Most Important Recent Cases—Annotated by Specialists**.

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Biography (with full page portraits).

Bryce, Rt. Hon. James.....	September
Dickinson, Jacob M.	October
Fielding, Henry	August
Hoadley, George	December
Lumpkin, Joseph H.	November
Maitland, Frederic W.	April
Marshall, Thomas F.	July
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President's Annual Address (Am. Bar Ass'n).....	October
The Constitutionality of the Beveridge Child Labor Law	May
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The Segregation of Japanese Students by the School Authorities of San Francisco	January

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The Justification of Fair Competition	May

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The New Central Criminal Courts. London (Illustrated)	April

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English and American Murder Trials	May
Should Female Murderers be Hanged?.....	April
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The Lawyer's Patron Saint	January

The Mercy of the Court of Burgomasters and Scheppens	February
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Methods of Ascertaining Cost of Carriage	March

The Public Service Commissions Act	July
The Wisconsin Public Utilities Bill.....	September

Reviews.

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New England Town Law	January

Miscellaneous.

Ancient Lawyers.....	August
Ancient Mortmain and Modern Monopoly	June

An International Prize Court	November
Cotton Mather in the Probate Court.....	November

Constructive Contracts	September
Has Trial by Jury in Civil Actions been Abolished?	June

Judicial Experiences in the Philippines	Nov., Dec.
Judicial Manners	May

The Bars of the United States and England	December
The Effect of the Presumption of Death upon Marketability of Real Estate	December

The Growth of Mining Law	April
The Influence of National Character and Historical Environment on the Development of the Common Law	October

The Judge as a Political Factor	November
The Origin of the System of Recording Deeds in America	June

The Will of an English Gentleman of Moderate Fortune	April
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A VERSATILE AUTHOR.

Otis Notman, in the New York Times "Saturday Review of Books," talks thus of the varied genius of Fredric J. Stimson, author of "American Constitutions":

Before Mr. Stimson left college he had written his first novel, "Guerndale," which he signed "J. S. of Dale." But he decided then that his interest in public affairs attracted him to law, while his duty to his family required a more money-making profession than the writing of novels not made to sell. For thirty years he has been active in politics, and is a member of both the New York and Massachusetts bars, and was at one time Assistant Attorney General in the latter state. He has numbered among his clients the United States Government, the Bank of England, and the State of Massachusetts, a curious record for a man not avowedly of large practice. He has an office now in the lawyers' section of Boston, and is still hard at work. He has written a number of law books, in fact has two coming out this year. One, "The Law of the Constitutions, National and State," the other a new edition of his handbook to the labor law of the United States.

In his capacity as professor he lectures at Harvard College on Comparative Legislation and Constitutional Limitations. He gives four or five lectures every week. He has also just given a course of lectures at the Lowell Institute, with the striking title "The Federal Powers, the Rights of the States, the Liberties of the People."

Mr. Stimson appears in his third role as a writer of fiction. He takes a good vacation, and when attending to railroad practice in his private car, or on his annual voyage to England, he writes his novels. At first he wrote under a pen name, that of J. S. of Dale, but his later books have been under his own name. His last novel is entitled "In Cure of Her Soul."

There are really four different occupations in which Mr. Stimson is vitally interested,—his law, his professorship, his writing, and his politics. In 1902 he ran as one of the Democratic candidates for Congress, and he it was who wrote the Massachusetts Democratic platform of 1903. Also for four years he was Counsel to the United States Industrial Commission at Washington, and was chosen to draw the present corporation code of Massachusetts.

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COMPARATIVE JURISPRUDENCE.

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BOSTON, MASS.

APRIL, 1908

FREDERIC JESUP STIMSON.

The author of our latest publication, "The Law of the Federal and State Constitutions of the United States," is one of the most talented and versatile, as well as one of the soundest and most profound of American authors. He was born in 1855 and graduated at Harvard in the class of 1876. Since then he has combined in one busy life five varied activities.

As a Lawyer, Mr. Stimson took his degree at the Harvard Law School in 1878, and began practice in Boston. He is a member of both the Massachusetts and the New York Bars. He was at one time Assistant Attorney-General of Massachusetts. He has had not so much a large, as an important practice. Among his clients he has numbered the State of Massachusetts, the United States Government and the Bank of England.

As a Legal Author, he has done excellent work. His "American Statute Law" is a marvel of laborious, accurate and systematic analysis. His "Law Glossary" is the best work of its kind in the English language. His "Labor in its Relations to Law," and his "Handbook to the Labor Laws of the United States," witness his application of law to sociology.

As a Teacher, he lectures at Harvard University on Comparative Legislation and Constitutional Limitations. He has recently delivered a course of lectures before the Lowell Institute of Boston, on "The Federal Powers, the Rights of the States, the Liberties of the People." These lectures have been published in a volume entitled, "The American Constitution," which must not be confounded with his new, larger and more important work on the Law of the Federal and State Constitutions.

As a Sociologist, Mr. Stimson has been prominent on such lines as labor legislation and uniformity of laws. Besides the two works on labor laws, mentioned above, he has published a volume on "Uniform State Legislation." He has been advisory counsel to the United States Industrial Commission and Massachusetts Commissioner on Uniformity of Laws; and he was chosen to draw up the present corporation code of Massachusetts. He has published in the magazines essays on various civic questions.

As a Novelist.—Beginning to write fiction under the pseudonym of "J. S. of Dale," but using later his own name, he has published eight novels, well known to lovers of good literature. Those fortunate readers who know his college skit, "Rollo's Journey to Cambridge," recognize in him a vein of wit in sharp contrast to the dry statistics of "American Statute Law."

Such is the interesting personality of the man whose portrait is shown on our first page, and whose new work on the Federal and State Constitutions will attract wide attention.

Jeremy Bentham.—Our readers will note the reference to Bentham in the interesting article on Evidence printed in this *Leg. Bib.* His theories on that subject are included in his five-volume work entitled "Judicial Evidence," which is out of print but not very expensive. All of Bentham's works were collected and printed in eleven volumes, about 1843, in Edinburgh. This set has gone entirely out of print, is difficult to get, and commands a high price. We usually, however, have a set in stock, or know where to find one.

TAKE AN INTEREST IN POLITICS?

If so, get and read carefully Stimson's *Law of the Federal and State Constitutions of the United States*, advertised elsewhere in this paper. It is an entirely novel and very important exposition of the fundamental principles of our system of government. As such, it throws a deal of light on problems which are confronting legislatures and courts, and about which every citizen, certainly every lawyer, must make up his mind.

If you are or have been or want to be in Congress or in the Legislature, you will also be interested in Ambassador Bryce's article, published in the April *Green Bag*, on "Conditions and Methods of Lawgiving" in England. The "effete monarchies" do some things better than we do.

RECENT ARTICLES IN THE GREEN BAG.

Every monthly number of this bright and readable magazine has two departments which the busy lawyer cannot afford to ignore, namely, *The Notes of Recent Cases, Annotated by Experts*, and the *Synopsis of Important Articles in Other Law Journals*. If read (or even glanced through) regularly, these reviews will keep a man who has no time to spare right up with late law.

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The Louisville Contested Election Cases, by Percy N. Booth.

MARCH, 1908.

Thayer's Legal Essays, by F. J. Stimson.

Conditions and Methods of Lawgiving, by the Rt. Hon. James Bryce.

The Essex County (N. J.) Court House, by G. S. Parker.

Our Judges (verse), by H. R. Blythe.

The New York Negro Plot of 1741, by Henry H. Ingersoll.

The Captain of the Quartermaster's Launch, by James H. Blount.

APRIL, 1908.

The Legal Career of Senator Knox, by Henry M. Hoyt.

Some Modern Tendencies, by Robert C. Smith, K. C.

America and the Middle Temple, by C. E. A. Bedwell.

The Sherman Law and Contracts in Restraint of Trade, by Paul Edgar Lesh.

The Scottish Law Student, by "Gael."

Squire Attom's Decisions, by Herbert J. Adams.

INTERESTING SECOND-HAND BOOKS.

[We have recently issued List No. 55, Scholarly Historical and Interesting Law Books, about 1500 titles. This catalogue will be sent without charge to any one interested in this class of literature. Below we give a list of books not on that list, received since it was issued.]

Adam (Wm.). Trial by Jury in Civil Causes. Edinburgh. 1836	\$3.00
Addison (Alexander). Judicial Impeachment Trial; unbound. Lancaster, Pennsylvania. 1803	2.50
Bench and Bar (anonymous). 2 vols. London. 1838	4.00
Bowyer (Geo.). Commentaries on the Constitutional Law of England. 2d edition. Lond. 1846	2.50
Brown (Marshall). Wit and Humor of Bench and Bar. Chicago. 1899	2.00
[Clayton , (John?)]. Topicks in the Laws of England concerning Media. London. 1646	3.00
Code Napoleon, First Edition. Code Civil des Français. Edition Originale et Seule. 4to. Paris. An XII (1804)	10.00
[Cowell , Dr.]. Law Dictionary, or the Interpreter of Words and Terms used either in the Common or Statute Laws, and in Tenures and Jocular Customs. Folio. London. 1727	3.50
Crumrine (Boyd). Courts of Justice, Bench and Bar, of Washington County, Pennsylvania. Washington, Pa. 1902	3.50
Ellesmere (Thos., Lord). Certaine Observations concerning the Office of the Lord Chancellor. London. 1651	3.00
Erskine (Lord). Speeches while at the Bar. Edited by Jas. L. High. 4 vols. Chicago. 1876	4.00
Exact Table of Fees of all the Courts. 2d edition. London. 1694	1.50
Fortescue (Sir John). De Laudibus Legum Angliae; and the Sums of Hengham. Notes by John Selden. London. 1660	3.50
German Maritime Code: translated into English by Wm. Arnold. London. 1900	1.50
Herbert (Sir Edw. Ch. Just. in C. P.). Authorities in Law in Sir Edw. Hale, his Case. Unbound. London. 1688	2.50
Kornmann (Henry). De Virginitate; Virginum Statu et Jure. Vellum. Norimbergæ. 1706	3.00
L(isle), E. Philologall Commentary or Illustration of the most Obvious and Usefull Words in the Law. London. 1652	2.00
McNair (J. F. A.) and Bayliss (W. D.). Prisoners their Own Wardens in Singapore, etc. London. 1899	1.50
Meritou (G.). Acts of Settlement (Irish Estates) Abridged. Dublin. 1701	2.00
Office of the Clerk of Assize , etc. 2d edition. London. 1682	2.00
Old Charters of Belgian Towns. Loix, Chartes, et Coutumes du Chef-lieu de la Ville de Mons, et des Villes et Villages resortissans. Mons. 1663	5.00
Raparlier. Exposition de la Lettre et de l'Esprit des Chartes Générale du Haynaut. 4to. Donay. 1771	3.50
Ridley (Sir Thos.). View of the Civile and Ecclesiastical Law. 3d edition, unbound. Lond. 1639	3.50
Sheppard (Wm.). The Faithful Councillor: or the Marrow of the Law in English. In two parts. Part I. Actions at Law: Part II. Relief in Chancery. 2d edition. London. 1653-4	5.00
Tariff Material. Digest of the Proceedings and Reports of the Committee of London Merchants for Reform of the Board of Customs. London. 1852	3.50

HOW TO FORM A PRACTICAL LIBRARY.

When the law student becomes a full-fledged lawyer, and starts in to practice by himself, he wants, anyway, the latest statutes of his own state. Some lawyers never get beyond that stage of literature.

Next, he wants an all-round book, one to which he can turn for an off-hand opinion on any topic any client may spring on him any day. Every old lawyer will tell you that there is just one such book, approved by three generations, and listened to respectfully by all courts,—**Bouvier's Law Dictionary, Revised by Rawle.** It is a sound, thorough, concise, reliable encyclopædia of law, and it *only costs you twelve dollars*. Having it, you are ready to earn fees.

Subscribe to "The Green Bag." Read carefully every month its two practical departments, the review of cases and the review of legal articles in the other magazines. Keep up thus from the very first with late law.

When practice and fees begin to come in, set aside a fair percentage to build up a real law library, one in which every book means something to you, and helps you brief and win cases. Don't wait for a honey-tongued canvasser to come and persuade you to buy something you will regret buying. Look ahead, survey your possible lines of practice, and equip yourself for what is most likely to come. For every case, buy the treatises which bear most directly on its crucial points. Get books somehow, even if you borrow money to do it. Your library to you is like the laboratory to the chemist or the engine to the factory.

When you begin to blossom out a bit, get a set of your state reports, then a set of annotated reports, then one of the large encyclopædias.

When you begin to get really into the swim, and have important cases, with a fair and steady income, continue to add wisely to your library. Buy sets of reports. First of all, get **English Ruling Cases with American Notes**,—the most valuable of all sets to a lawyer who knows how to use authorities and make sound briefs.

Get the "Century Digest," so as to have all American reports at call; and **Mews' Digest of English Law**—to supplement it.

If you become really prosperous, and go deeply into important law, you can afford to subscribe for the greatest undertaking of this generation, **The Full Reprint of all the English Reports**. If you wait too long, you will not get it, because the publishers did not stereotype the series and the volumes issued are already out of print. We can, at this writing, furnish a set at \$6.50 per volume, but how long the offer can be kept open, we would not venture to say.

Nothing More to Say.—They were cross-examining, in a Chicago court recently, a bookmaker who had been caught in the toils for playing some other game than his own.

The third sub-assistant district attorney was intent upon a conviction, however, and was doing his best, none too successfully, to shake the testimony of the defendant.

"You're sure of that?" he yelled, as the bookmaker stuck to an assertion that did not suit the case of the state.

"Sure, I am certain," came the answer.
"You remember that you are under oath?"
"I do that."
"And you'd swear to this statement of yours?"
"Swear to it? Why, Mr. Lawyer, and judge, your honor, I'd bet a hundred on it any day."—*Green Bag*.

NEW CONSTITUTIONAL FORCES.

Extract from the Preface to Stimson's Law of the Federal and State Constitutions.

American constitutional law has had its broadest development in the last twenty years. Since the cardinal meaning of the Federal Constitution was settled by the early great decisions, and the relation of the States to the Federal Government once decided by the Civil War, there has, in a century, been comparatively little growth until the last decade or two. The enormous mass of litigation on the meaning of the "obligation of contract" and of the words "commerce among the States" related, after all, to but two short phrases in that great document; and in the latter of these two instances the decisions of the last twenty years far exceed, both in number and importance, all that went before. Constitutional law, therefore, like the law of labor and free contract, is in the United States "a live science." Both in the States and in the nation it has had its most active discussion recently; and the matter bids fair to increase still more at the hands of the next generation. The great social principles, of the right of the individual, both to property and even to personal liberty, as against the will of a majority or an organized minority having the ears of the executive and the legislative branches of government, have got to be resettled—the great political questions of the social and jurisdictional (not political) relation of the States to the Federal Government, the right of the States to their own customary law and their own police power, have, it seems, once more to be fought over.

Personal freedom was established in England, substantially as we know it now, in the 12th century. It was taken almost as a matter of course by our ancestors, both in England and here, until within a very few years. It was the assertion of political power, and notably of the right to tax and impose military rule or law, that remained in question. But when our Constitution was adopted, these principles also were so engrained in the popular mind as to need hardly more than expression. Since then more than a century has gone by. Our population has grown from four millions to eighty millions, a majority with no inherited training in English institutions, and even the American minority, in their very security, forgetful of them. Two potent forces are now at work; first that of philanthropy, general benevolence, ethical amelioration, seeking results rather than liberty, traceable in theory directly back to Austin, Bentham, and Hobbes; the other the class-conscious multitude of organized labor, seeking (and for the same reason) to reimpose regulations and control upon the actions of others either through or beside the State, which was tried but only partially tried in the thirteenth or fourteenth centuries in England. For the English agitations, when not mere risings of the peasants, resulted rapidly in an exclusive, almost aristocratic, trade-guild. To show how striking is the present activity of these two forces I need but to refer to the decisions of the Supreme Court of the United States. In all the ninety years from 1796 to 1886 they found only one thousand constitutional cases to consider, and in these declared some two hundred statutes of States or Acts of Congress to be unconstitutional. In the twenty years from 1886 to 1906 they considered more than thirteen hundred cases of this sort, more than half of which, and these much the most important, were set in motion by the two forces I have named, and probably a larger proportion than before were held unconstitutional. For State Constitutional law it is only necessary to refer to the valuable annual bulletins of the New York State Library. One hundred and four laws of the States or

of the United States were declared unconstitutional in the one year 1906. It is a fact not possibly unconnected with this that during the same year forty-six new constitutional amendments were adopted and thirty rejected, making the attempted output seventy-six, just about two thirds of the one hundred and six nullifications; but only about one third of these amendments found the favor of the people. If these amendments embodied in all cases the same provisions which had been declared void by the courts, one might draw the inference that in about two thirds of the cases the people sustained the courts. The true number, however, is far greater than this. Nothing is more interesting than the unanimity with which the people, as a rule, welcome the decision of their highest court declaring a law unconstitutional; that is, in conflict with their own will as permanently expressed. Of late years only do we see an ominous tendency in the other direction, due to the unfortunate fact already adverted to, that so many unconstitutional statutes embody the rash attempts of philanthropic and labor interests to impose their will upon others by law, rather than by persuasion or the legitimate powers of the trades union.

DIRECT LEGISLATION.

From the Preface to Stimson's Law of the Federal and State Constitutions.

Of the contents of the various State Constitutions, a threefold division may roughly be made; they usually contain, first, the Declaration of Rights; second, the political constitution and organization of the State; and third, very varied and miscellaneous restrictions and injunctions concerning legislation. I have attempted to incorporate herein the entire Constitution of every State, excepting only minute and detailed provisions, not of general interest, concerning minor administrative offices, courts, and municipal government. Where the wording in the several States is not identical, I have been careful to give the various forms when there is any possibility of a difference of meaning or legal effect.

This third part has grown out of all proportion to the others; in fact, in the newer Constitutions, particularly in the West, it far exceeds the other two in bulk and contains such a code of directions or inhibitions as to leave very little real legislative power to the Legislature. The Louisiana Constitution, for instance, contains one hundred and forty-four pages! But still more notable is that of Alabama, covering sixty-nine pages of fine print, and those of the eight new far Western States. Even in States which do not adopt the initiative and referendum, as some of these Western States do, the adoption of such an elaborate Constitution is practically direct legislation, "Legislation by the people." Naturally, there is a tendency in such cases to more frequent amendment; necessarily so when the Constitution, instead of embodying a few great principles and the broad framework of the State government, attempts to prescribe infinite details of legislation and of administrative machinery. Historically, and from the point of view of a Constitutional lawyer, such Constitutions are entirely unscientific. The late Governor Russell of Massachusetts, in his address before the Yale Law School, well pointed out the objections of putting such a mass of things into the Constitution, both as depriving the Legislature of all sense of responsibility, and as discrediting the Constitution itself. Such a vast mass of directions embodying merely the temporary desires of a present majority, when either necessity or popular opinion requires a change, involves a necessity of such continual amendment and frequent alteration as to bring a written Constitution into contempt.

THE LAST RESORT.

[From *The Green Bag* for April, 1908.]

When you have a very important question on which you are unable to find authorities to suit you in text-books, digests and encyclopedias, there is still one recourse for the lawyer who knows how to use law-books, and that is,—the law periodicals.

For generations learned lawyers who have not had time to write law-books have contributed to the law journals of their day, articles which embodied months or years of research on topics not then (or now) so fully covered elsewhere in law literature. Thayer's Legal Essays, just published, collects in book form a dozen such articles, and shows their value; but the writings of a thousand other lawyers and law professors and judges have not yet had the fortune to be thus edited and collected, but remain scattered and hidden in the bound volumes of English, British, Colonial and American legal periodicals.

And not entirely hidden, either. There is a work (2 vols., \$20.00 net) entitled "Index to Legal Periodicals," by Hon. Leonard B. Jones, the well known author of treatises on Mortgages, etc., in which he has provided for his brethren a key to all this valuable literature. He who knows how to use this key need not stop baffled when he fails to find good law through ordinary channels, but can delve deeper than his opponents, and find where some sound lawyer, after laboring months and years to brief a difficult point of law, has put in print and left for another generation the fruit of his thorough investigations.

To exhaust this recondite source of argument, one must have *first* Jones's Index, and *next*—the sets of periodicals. Every lawyer who has a decent library ought to own the Index. If he has a very large library of his own, he ought to buy for it sets of the leading American and English law periodicals. If he cannot spare money or space for such bulky series, he ought to see to it that the nearest Bar or State Library has a complete collection to which he can refer in case of sudden need.

Every State Library or library used by judges of the courts ought surely to have a complete collection of sets of legal periodicals, because a judge, when doubtful as to the merits of a case which has been presented to the court, may want to go behind and below the arguments of counsel, and seek for himself the most thorough examination of the point of law in issue that can be found in all the books, and the most thorough discussion is very possibly in the periodicals rather than in text-books and decisions.

The Boston Book Co. is the only firm which makes a specialty of law periodicals. On p. 7 of their Legal Bibliography, Vol. 3, No. 5 (January, 1908), may be found a list of 114 complete sets which they then had for sale.

A Pleading Song.

The Legal Bird on musty leaves doth sit
And sing his old refrain: "To wit, to wit."

—*Green Bag*.

Within His Rights.—The Judge: "Was your chauffeur guilty in this accident?"

The Prisoner.—"No, your honor, the victim was run over in entire compliance with the ordinance."

—*Green Bag*.

Religious Persecution.—A man addicted to walking in his sleep went to bed all right one night, but when he awoke he found himself on the street in the grasp of a policeman. "Hold on," he cried, "you mustn't arrest me. I'm a somnambulist." To which the policeman replied. "I don't care what your religion is—yer can't walk the streets in yer nightshirt."—*Green Bag*.

THE AMERICAN LAW JOURNAL, 1808.

This is the centenary of legal journalism in the United States.

In January, 1808, a hundred years ago, John A. Hall of Baltimore began to publish in Philadelphia "The American Law Journal and Miscellaneous Repertory," an enterprise which the editor flattered himself in his preface "may in time comprise the rudiments of a complete system of American jurisprudence."

The publication appears to have been a somewhat irregular quarterly; with reports of cases and miscellaneous matter. Thus the third volume includes Du Ponceau's translation of Van Bynkershoek's Law of War.

The periodical had a fairly continuous existence in Philadelphia for three years, and then lay dormant for two years. In 1813 "The American Law Journal, Vol. 4, Being the First of a New Series," edited by John A. Hall, appeared in Baltimore. A very ambitious "Advertisement" outlined a plan for publishing reports of cases, abstracts of laws, and translations of several Latin treatises on maritime subjects and on the Common Law of England. The sub-title of "Miscellaneous Repertory," was dropped. Vol. 4 appeared in 1813. A note dated May 26, 1813 (at the time of the British invasion), apologizes for errors, on the ground that the editor and printer were both absent on military duty.

Vol. 5, 1814 (Baltimore), was made up mainly of the New Orleans Batture cases, and Robert G. Harper's opinion on the Yazoo Question.

Another interval in publication occurred here. Vol. 6 was dated Philadelphia, 1817, and includes among other matter Charles J. Ingersoll's translation of an anonymous Prussian treatise on the freedom of neutral commerce in time of war.

The Sisyphean task of rolling up a circulation for a law-periodical again exhausted Mr. Hall for a few years. But in 1821 he issued, in Philadelphia, "The Journal of Jurisprudence: a New Series of The American Law Journal," the most important contribution being an English translation of Valin's commentary on the ordinance of Louis XIV, "Of Mariners."

With this supplementary volume the American Law Journal finally expired, after a fitful and struggling life of thirteen years. Its editor deserves sympathetic appreciation from the thousands of American lawyers who find professional aid and recreation in the numerous law journals of this age.

The publishers of *The Green Bag* lay this wreath upon the memory of their earliest prototype.

THE MOSAIC LAW.

Here is a clipping from a recent newspaper:—

"London, Nov. 17.—A deputation of four Samaritans, headed by Isaac, son of Amran, second high priest at Nablus, the Shochem of the Bible, is now in London trying to sell a manuscript of the Pentateuch dating from 1050 A. D. It is said that dire poverty alone induced the Samaritan community to dispose of the treasured manuscript, for which \$25 000 is asked. It is a long roll of parchment, mounted on stout paper. It is written in a small, but clear Samaritan hand. The lower part has been damaged by water, but the rest of it is perfect. It has been offered unsuccessfully to the British Museum and will be offered to Oxford University."

We have in our safe, and could be persuaded to sell for less than \$25,000, a similar parchment manuscript of the Pentateuch, written in Hebrew, rolled on an olive-wood rod, and wrapped in silk. We can trace this legal and ecclesiastical treasure back to Russia, but cannot prove its age or scholarly authority

NEW BOOKS, JANUARY-MARCH, 1908.

AMERICAN REPORTS, ETC.

General Series.

American Bankruptcy Reports. Vol. 18.
American State Reports. Vol. 117.
Cyc. Annotations. 1907
General Digest. Vol. 23.
Lawyers' Reports, Annotated. N. S. Bk 11.
McMaster's Commercial Dec. Vol. 10.

United States.

U. S. Supreme Court Reports. Vol. 208.
Circuit Court of Appeals Reports. Vol. 83.
Court of Claims Reports. Vol. 42.
Porto Rico Federal Reports. Vol. 2.
Interstate Commerce Reports. Vol. 13.

State and Territorial Reports, etc.

Ala. Reports. (Reprint vol. 17.)
Ark. Reports. Vol. 84.
Cal. Reports. Vol. 150.
Del. Reports. Chancery. Vol. 8.
Hawaii. Session Laws. 1907.
Ida. Session Laws. 1907.
Ill. Reports. Supreme Court. Vol. 230.
 Appellate Court Vol. 131.
Ind. Reports. Supreme Court. Vol. 167.
 Appellate Court. Vol. 39.
Ia. Reports. Vol. 134.
Me. Reports. Vol. 102.
Mass. Reports. Vol. 195.
Mich. Reports. Vol. 149.
Minn. Reports. Vol. 102.
Mo. Reports. Supreme Court. Vol. 205.
 Appellate Court. Vol. 123.
Digest. Pattison. Vol. 8.
Neb. Reports. Vol. 73.
N. J. Digest. Parker. 7 vols. (Vol. 2 ready.)
N. Y. Reports. Supreme Court. Vol. 120.
 Criminal. Vol. 20.
Ore. Reports. Vol. 48.
Pa. Reports. Supreme Court. Vol. 218.
 Superior Court. Vol. 34.
 District Court. Vol. 16.
Lancaster Law Rev. Vol. 24.
Montgomery County Reports. Vol. 24.
Tenn. Reports. Vol. 117.
Utah. Reports. Vol. 31.

CANADIAN LAW BOOKS.

Reports, Digests, etc.

Dominion.
Reports. Criminal Cases. Vol. 13.
 Canadian Law Times. Vol. 28.
Digest. Canadian Annual. 1907
Quebec.
Reports. *Révue Légale.* Vol. 14.
Révue de Jurisprudence. Vol. 14.

BRITISH EMPIRE.

Reports, Digests, etc.

England.
Reports. Times Law Reports. Vol. 23.
 Year Book, Edward III. Year 19.
Revised Reports Vol. 95.
English Reports Reprint. Vol. 81.

AMERICAN ELEMENTARY BOOKS.

<i>Bunn.</i>	Oklahoma Constitution and Enabling Act	\$3.00
<i>Burdick.</i>	Cases on Sales	3.50
<i>Cipperly.</i>	Labor Laws and Decisions of N. Y.	2.50
<i>Dyer.</i>	Maine Corporation Law	3.00
<i>Hamilton.</i>	Law of Negligence in Wisconsin, Supplement	5.50
<i>Houk.</i>	Written Instruments in Texas. 2d ed.	5.50
<i>Joslyn.</i>	Personal Injuries in Illinois	6.30
<i>Morison.</i>	Tennessee Pleading and Forms	5.50
<i>Moore.</i>	On Facts. 2 vols.	12.00
<i>Parker.</i>	Corporation Manual. 1908	6.50
<i>Remington.</i>	Bankruptcy. 2 vols.	12.80
<i>Shamel.</i>	Mining, Mineral and Geological Law	5.00
<i>Thayer.</i>	Legal Essays	3.50
<i>Trickett.</i>	Law of Crimes in Pennsylvania. 2 vols.	11.00
<i>Walker.</i>	Manual of Public International Law	2.50
<i>Westlake.</i>	International Law	3.00

ENGLISH ELEMENTARY BOOKS.

	£ s d
<i>Beven.</i> Negligence in Law. 2 vols. 3d ed.	70.0
<i>Brown and Jordan.</i> Handbook on Formation and Management of Joint Stock Companies	7.6
<i>Clarke.</i> Small Holdings Act. 1907	5.0
<i>Dixon.</i> On Divorce. 4th ed.	22.6
<i>Folkard.</i> Slander and Libel. 7th ed.	31.6
<i>Fraser.</i> Libel and Slander. 4th ed.	15.0
<i>Hurry.</i> Manual of Small Debt Procedure	41.0
<i>Jelf.</i> Where to Find Your Law. 3d ed.	10.6
<i>Mosley and Whiteley.</i> Law Dictionary. 3d ed.	10.6
<i>Shaw.</i> Vaccination Law. 8th ed.	7.6
<i>Snell.</i> Principles of Equity. 15 ed.	21.0

NEW GERMAN CODE TRANSLATED.

We have received copies of *The German Civil Code* translated into English and Annotated, with Historical Introduction and Appendices. By Chung Hui Wang. D. C. L. London, 1907. [Cloth, \$5.50.]

The most remarkable thing about this volume is that its editor is Chinese. Even when it is understood that he is a graduate of the Law School of Yale University, the clearness and idiomatic excellence of his English style, and the apparent accuracy of his rendition of German legal phrases, are simply marvellous.

One of the first tasks of the government of the new Germany was the consolidation and nationalization of the laws of the states composing the empire. A commission of eminent jurists devoted twenty-two years to careful comparative study of the Roman Law, the Code Napoleon, the Austrian Civil Code of 1811, and the representative law books of Prussia, Bavaria, Saxony, and the other constituent parts of Germany. The result of their labors, the "Bürgerliches Gesetzbuch für das Deutsche Reich," was adopted in 1896, to go into effect Jan. 1, 1900. This Code, which Maitland calls "The most carefully considered statement of a nation's laws that the world has ever seen," has so far been translated into Spanish, into Italian, twice into Japanese, four times into French,—but not until now into English.

Of this "thoroughly good and workmanlike" translation, the *Law Quarterly Review* says:—"Dr. Chung has studied in America and in Germany; his combined mastery of the two languages is such as many Germans, and many Englishmen, might envy. His translation is not only accurate, but written in idiomatic English. His notes are concise and practical, and he has added references to the principal editions of the Code, and a useful bilingual list of technical terms."

FOR AFTER-DINNER ORATORS.

The fortunate lawyer who is called on for an after-dinner speech, or the ambitious lawyer who wants to make a telling political speech, sometimes even the pleader who wants to put his jury in good humor, must cudgel his brains for an apt and telling joke to begin his remarks with. When memory does not work easily it is well to have some reservoir of wit to draw from. Such a store-house is a set of the *Green Bag*. There are hundreds of good stories and legal jokes in every volume, but they are not indexed. Here, however, is a meagre beginning in that direction prepared by a young friend of ours who has the oratorical fever.

Chase, Chief Justice	March, 1906
Choate, Rufus	Jan., 1906, Sept., 1906
Continuations	May, 1906
Cross-Examination, Art of	Sept., 1905
Damages, Domestic	March, 1907
Damages v. Repairs	Jan., 1907
Decision Reserved	Sept., 1907
Dementia Americana in 1611	Dec., 1907
Depew, Chauncey	Feb., 1905
Dictionary, Lawyers' Revised	July, 1907
Divorce, Act of God	Nov., 1906
Dog, Mad	March, 1905
Evidence, Real	Feb., 1906
Examination, Over	Feb., 1906
Extra-Territoriality	Sept., 1906
Fees	May, 1907
Grand Jurors' Qualifications	Aug., 1906
Hummel, Abe	Aug., 1905
Identification, Complete	May, 1907
Insanity	April, 1906
Insurance, Theory of	Oct., 1905
Intimacy	Dec., 1906
Judgment, So. Carolina	June, 1905
Judicial Punning	Oct., 1906
Jurisdiction, Limit of	July, 1906
Juryman, German	March, 1906
Juryman, Obstinate	June, 1906, Nov., 1907
Justice, Negro	June, 1907
Juvenile Offender	June, 1906
Kirchwey, Dean	April, 1905
Law, Stage	Jan., 1905
Law's Delay	Nov., 1905, April, 1907, May, 1907
Legislation, Needed	Dec., 1906
Mandamus, Tennessee	Aug., 1907
Necessaries	Feb., 1907
Nol Pros	Sept., 1907
Objections, Selected	May, 1906
O'Connell, Daniel	April, 1907
O'Connor, Charles	Jan., 1906
Pleading, Georgia	Nov., 1906
Pollock, Sir Frederick, at Portland	Dec., 1907
Practice, Tennessee	Dec., 1905
Presence of Mind	Jan., 1907
Promise, Breach of	Dec., 1905
Proof	Jan., 1907
Recess, Constructive	July, 1905
Sentence, Compound	June, 1907
Suit, World's Longest	May, 1905
Supreme Court Decisions not Law	Oct., 1907
Weapons, Concealed	June, 1906

Bargains in Law Books.—If you are interested in building up a library the lists of bargains in the Jan., 1908, number of *Leg. Bib.* would interest you. Did you see it? If not, you can get a copy by writing to us. And also you can get for the asking our *List 56, Second-hand Text Books*, and *List 55, Scholarly, Historical, and Interesting Law Books*.

BOOK NOTES.

Anti-Trust Decisions.—We have on hand several sets of Finch's Anti-Trust Decisions, 2 vols., \$12.00.

Right of Arrest.—“For the right to arrest without a warrant under the common law, see *Voorhees on Arrest 112 et seq.*”—Porter v. State (Georgia), 52 S. E. Rep. 283; s.c. 2 L. R. A. N. S.

English Law.—Three parts of Jenks' Digest of English Civil Law, a notable work, have now been published, at \$1.25 per unbound part.

Blackstone's Works.—Articles on the bibliography of Sir William Blackstone may be found in Notes and Queries (London), Fourth Series, vol. 1, p. 528, and Vol. 2, pp. 29 (Commentaries), 125, 194 and 575.

English Overruled Cases.—We suppose most of our customers have already ordered the recent Wood & Ritchie's Digest of Cases Overruled, Approved, or Modified, 3 vols. \$25.00.

Best on Evidence, New Edition.—Mr. Chamberlayne is preparing the index for his new edition of this standard work, which still remains the best single-volume work on the Principles of Evidence. It will be published in May, price in cloth, \$3.50.

English Digest to Date.—We are taking subscriptions for the first Consolidated Supplement to Mews' Digest of English Case Law, to be published shortly in two volumes; price \$15.00

Admiralty.—The most frequently cited English work on this topic is Aspinall's Maritime Cases, 9 vols. published, and Vol. 10 current in parts. The regular price of the nine volumes is \$135. We have a new set which we can sell for \$100.

United States History.—James Schouler, author of the standard treatises on Wills and on Executors, is also author of an excellent “History of the United States from the Adoption of the Constitution to the Close of the Civil War, 1789-1865,” in six volumes. Price in cloth, \$13.50.

The Scarce Vice-Chancellors' Reports.—When the English Chancery Reports Reprint (69 vols.) was published, many years ago, there were twenty-nine of the best of the Vice-Chancellor series left out by the sudden cessation of publication. We can furnish these now, taken from the new Full Reprint and bound in nine volumes, for \$60, about \$2.00 for each original volume.

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[N. B.—This is a different work from “The American Constitution: Lowell Institute Lectures,” by the same author, recently published.]

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SUPPLEMENT TO E. R. C.

A Review of Recent Cases.

The Supplement to *English Ruling Cases*, by Robert Campbell, English editor, and James T. Keen, American editor, will be published May 10.

The recent decisions upon most of the important cases are fully presented; and in cases where the doctrines of the subject discussed have been materially modified or changed by recent decisions, the old as well as the new theories are set forth.

Thus, in the law of *interference with contract*, cases adjudicated within the last few months have discredited decisions upon similar facts made within the past ten years. These older decisions in turn were when made regarded as themselves modifying still older rules of law. For example, in Massachusetts the very recent cases of *Berry vs. Donovan* and *Pickett vs. Walsh* seem to have discredited the slightly older cases of *May vs. Wood* and *Rice vs. Albee*, which, when decided, were regarded as settling the law. So in England, *Allen vs. Flood*, decided in 1898, is practically nullified by *Quinn vs. Leatham*, and the line of cases which follow it.

The specific tort here mentioned was until recent times known as malicious interference with contract. Such decisions as *Walker vs. Cronin* and *Carew vs. Rutherford*, leading cases in Massachusetts, make malice the gist of the action. But the more recent cases eliminate malice as an element of the tort. See *Brennan vs. United Hatters*, 73 N. J. Law.

The law of *common carriers* is dealt with in great detail, and their duties to their passengers, shippers, servants, and third persons are carefully analyzed.

Much labor has been bestowed by Prof. Keen upon questions of *pleading*. Settled questions of substantive law may be easily answered from the numerous encyclopedias and text-books which are at the hand of every practitioner; but just what the plaintiff must allege in his declaration in order that it may be good on demurrer; just what evidence he must introduce to get to the jury; just how the plaintiff's *prima facie* case is to be met and overthrown, are questions which are in many cases not adequately answered in any other modern work.

The law of *extraordinary remedies* is dealt with minutely from the standpoint of pleading and evidence; the practice of the courts is set forth, and the various steps in the trial examined.

In short, the American notes have been designed, not only to deal with matters which may be found in any comprehensive work of similar nature, but to go beyond that and treat questions of procedure which are unanswered in other works.

[Price of the Supplement \$5.50. Set of *English Ruling Cases* and Supplement, 27 vols., \$108.00.]

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To the question, "What are the first sets of law journals to buy for a growing library?" we answer, having in mind both intrinsic value and possibility of making up sets:—

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English. Law Quarterly Review. 23 vols.

Scotch. Journal of Jurisprudence. 35 vols.

Juridical Review. 19 vols.

NEW ENGLAND TOWN LAW.

Garland's *New England Town Law* (\$6.50) is valuable as a lawyers' manual in the six New England states, but is also interesting elsewhere, as illustrating a form of municipal law which is paralleled in other parts of the country. Here is a review taken from *The Annals of the American Academy of Political and Social Science*, Vol. XXIX, No. 1.

This valuable volume consists of two very distinct parts. The first eighty-three pages are taken up with an interesting review of the origin, development and present status of the New England town. Little that is really new to the student of municipal history is offered here, but the results of various detailed studies are presented in an attractive and concise manner. The most interesting portion of the study, especially to those not personally familiar with New England, is the description of the survivals of former customs and methods of organization, not only in the out-of-the-way country districts, but even in some of the most progressive of New England municipalities.

The study of the communal holdings by the towns is also well done. How long these survived is a surprise to the average reader. It seems hard to realize that Boston Common was still used as a pasture in 1830, and that Plymouth, Salem and Sandwich still preserve remnants of their old communal lands, administered much as they were when they were originally established.

The second part of the book presents the first systematic compilation of the laws of the New England states in relation to towns and town government. The laws are grouped around the titles of the officers of the towns, and those of each state are arranged together. By these means the whole body of the law is rendered accessible to the reader, an advantage impossible through any other method because of the great mass and diversity of the statutes. Over three thousand five hundred references are given, citing the more important decisions given by the courts in cases under the various enactments.

CIRCUMSTANTIAL EVIDENCE.

Did you ever read *Wills on Circumstantial Evidence* (the edition with American notes by Prof. Beers of Yale is the latest and best—\$5.00)? It is not only a standard treatise on the subject, worth studying and citing in the courts, but its narratives and analyses of cases in which circumstantial testimony was introduced, read like the novels of Sherlock Holmes.

In his "Conclusion" the author says: "The design of this Essay has been to investigate the foundations of our faith in circumstantial evidence, to ascertain its limits and its just moral effect, and to illustrate and confirm the reasonableness of the practical rules which have been established in order to prevent unauthorized assumptions, and to secure to relevant facts their proper weight. It has been maintained that circumstantial evidence is inherently of a different and inferior nature from direct and positive testimony; but that nevertheless such evidence, although not invariably so, is frequently superior in proving power to the average strength of direct evidence; and that, under the safeguards and qualifications which have been stated, it affords a secure ground for the most important judgments in cases where direct evidence is not to be obtained."

A Higher Court.—"Ever try an automobile, Judge?" said a friend.

"No," replied the Judge; "but I've tried a lot of people who have."—*Green Bag.*

COMPARATIVE LEGISLATION.

The English publishers of the Journal of Comparative Legislation did not foresee the American demand, and the volumes they have already issued have gone out of print and become scarce and dear.

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The Boston Book Company is the American agent for the Society, and can furnish prospectuses for those who are interested in the topic.

THE LEGAL AUTHOR'S TASK.

In the preface of *Ram on Assets*, we find this excellent statement of the difficulties of a legal author:—

"The task of a law writer can very rarely be light, if he undertakes personally to read the cases reported, and to state the effect of them. To ascertain the decision in a single case very frequently requires much patient thought and investigation; and it will readily therefore be apprehended, that to gather the law that results from a series of cases, beginning perhaps at a distant period, and most usually determined in different Courts, and by judges of unequal eminence, is sometimes impracticable, and is constantly exposed to the danger of error. The authority of a case often depends on the Court in which, or the learning of the judge by whom, it was decided. A case at *Nisi Prius* carries less weight than one decided by assembled judges at Westminster; and it is certain that, generally speaking, a judgment by a Court in Westminster Hall yields in importance to a decision in the House of Lords. The authority of a case may, moreover, be strengthened by the circumstance that it was determined by a 'strong' Court, by a Court composed of judges of great reputation, or by, or with the concurrence of, a single judge distinguished for his learning; and be weakened by the circumstance that the Court were equally divided, or were not unanimous. Besides the trouble of fixing the value of cases, in searching for the present law, further difficulties commonly occur. One authority, or one series of authorities, is contradicted by another; a modern case and one determined some years ago, or even two recent cases, are found to be much, if not directly at variance; and, more perplexing still, cases that for years have uniformly flowed in a particular direction, are not infrequently met by an opposing stream, strong enough to stem the older current, and to make it doubtful what course they will hereafter take. The value of a case may be clear, and it may remain uncontradicted; and yet to know the effect of it, it is constantly needful to inquire if it determines a general question, or if it is decided merely on its own particular circumstances. The importance of this inquiry is demonstrated by the fact that in a multitude of instances the Court anxiously guards against misconstruction, by expressly stating in terms that it decides on the particular circumstances only, and leaves the general question untouched. When it is required to state the grounds of a decision especial care appears to be necessary, accurately to collect them from the facts of the case, or the language of the judgment. 'Read not to contradict and confute, nor to believe and take for granted, but to weigh and consider,' is advice that seems peculiarly to apply to a writer on English Law."

SUPPLEMENT TO THE ENGLISH STATUTES.

In a former number of *Leg. Bib.* we called attention to the fact that no collection of the English Statutes was complete without a set of the *Statutory Rules and Orders of Great Britain*. In Ambassador Bryce's article on "Conditions and Methods of Lawgiving," in the March, 1908, *Green Bag*, we find this explanation of the scope and value of this series. Have you a set in your library? If not, we advise you to get it while it is still in print and cheap.

"At one time Parliament used to pass acts which, being of temporary application, and passed for special reasons, ought hardly to be deemed legislation in the proper sense, being really rather in the nature of executive orders. Today it very rarely passes such acts. Orders of the executive kind are now made not directly by Parliament, but either by the King in Council, upon some few matters that are still left within the ancient prerogative of the Crown, or else under statutory powers entrusted by Parliament either to the King in Council or to some administrative department. I believe that in France and Germany also such orders are not made by the legislature.

"There is also a larger class of rules, or ordinances of a somewhat wider but not general application, which being of an administrative nature require from time to time to be varied. Such rules or ordinances are, in England, now usually made by authorities to whom power in that behalf has been specially delegated by Parliament. We have now a mass of such 'Statutory Rules and Orders', as we call them, filling many volumes. Some, including those which affect the Crown colonies, are made by the Crown in Council. Some, being those which regulate legal procedure in the Courts, are made by the Rule Committee, consisting of Judges of the Supreme Court of Judicature, and other representatives of the legal profession, chosen for the purpose. We find this a very convenient arrangement because it enables us from time to time to modify our legal procedure without the necessity of referring the matter to Parliament and requiring Parliament to enact it in a way which would be less convenient and prompt.

"The rest are made by the Departments of State, especially by the Home Office and the Local Government Board, which issue an immense number of regulations for the conduct of local authority. In this way we have fixed up a very large number of rules which have statutory effect, because they are made under the powers of statute, but which are not made by Parliament directly but under delegated authority, and we publish these in volumes called 'Statutory Rules and Orders,' a different collection from that of the statutes.'

Prof. Thayer's Portrait.—The frontispiece of *Thayer's Legal Essays* reproduces the photograph of Professor James Bradley Thayer which his relatives and intimate friends like best. The many students who loved him as much as they looked up to him, will prize the book for the portrait even more than for the text.

The French Law.—We are just cataloguing a collection of modern standard French law books, which was made not many years ago for a large library in Montreal, and which has recently come into our hands. We will send the manuscript catalogue for examination to anyone interested in modern Civil Law.

Bryce on Lawgiving.—Have you read the article by the author of "The American Commonwealth" in the March "Green Bag," comparing English and American methods of legislation? It is well worth reading.

Constitutional Law.—If you are interested in this topic, you will of course want F. J. Stimson's new work, but do not forget also that *Thayer's Legal Essays* are largely Constitutional.

THE LAW OF CONTINENTAL EUROPE.

A NEGLECTED STUDY.

Is it not time to have a Law University, for the study of the origin and history of Law and Laws; different systems,—barbarian, civil, canon, feudal, common; the evolution of mediæval and modern national law, courts and legislation?

Our law schools as now conducted are trade-schools, for practical education in litigation, with occasionally a scholarly teacher. Of comparative jurisprudence, of Law as a science, as an element of history, as a factor in civilization, as a characteristic of national life, what is taught?

Take for instance the legal systems of modern Europe: what do we comprehend of their law as it is today? Have we not a vague idea that "Modern Civil Law" is substantially one system, inherited from the Roman Civil Law? But it is not. Each country has a different law, with different roots and growth. In some countries early customs, a local common law, still prevail; in others, the Roman law largely survives; in others again, the Code Napoleon controls. In many nations, different districts have entirely different laws. In Austria-Hungary incongruous systems are holding stubbornly apart. In Germany, the new national life is assimilating the laws of a score of congregated units. Each of the other countries has interesting peculiarities of positive law.

In what we call administrative law, there is some similarity; in legal education, in forms of practice, in constitution of the courts. An almost universal phase of the latter differentiates European professional life from ours. The judicial career is a profession in itself, open to all who can pass the examinations. On graduation from the University, each student elects whether to become a practitioner, an executive officer, or a judge. If he wishes to spend his life as a judge, he goes through a novitiate as clerk of court, and, if apt, is gradually promoted, until perhaps he reaches the supreme bench.

The Swiss think their courts better than those of other European countries, because they take their judges, as we do, from the Bar. Thus, they claim, their judges are not a prejudiced caste, but come fresh from the affairs of life, where they have been in close touch with the great forces of progress.

Swiss law, indeed, is a good beginning for study, because it combines three elements. Some of the cantons of Switzerland are German, some French, and some Italian, each with peculiar laws and customs. Out of these distinct and often conflicting elements, the Swiss have been trying to formulate national law. They have never had a federal Civil Code until this year, having adopted in December last the final draft for a Code submitted by the last of several successive commissions.

The decisions of the Supreme Court of Switzerland are printed in German, French, or Italian, each case in the language of the canton from which it is appealed. The Swiss claim that these decisions partake of German profundity and French clarity, and that the need of studying and applying so many systems of law renders their decisions sounder and more catholic than those of courts whose scope is narrower.

Throughout Europe, perhaps the most interesting feature of legal development is the increasing citation of decisions of the courts, amounting to a practical *Stare Decisis*, and the growing literature of reports of cases.

There is matter for a four years' course of study in the diversities of modern European law alone.

Stare Decisis in Europe.—Those readers who took any interest in the article under this title in *The Green Bag* for August, 1907, might like to see a pamphlet issued by Dr. Friedrich Stein in 1897, entitled, "Die bindende Kraft der richterlichen Entscheidungen nach der neuen österreichischen Civilprocessordnung."

SETS AND BOOKS NOW IN STOCK.

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EVIDENCE A SCIENCE.

[In his preface to the new edition of *Best on Evidence*, Mr. Chamberlayne presents this interesting view of the versions of the Law of Evidence.]

The position of Mr. Best among authorities on Evidence has always been unique. He prefers to treat the scientific principles which underlie the subject rather than to formulate the empirical rules which regulate its administration or render it effective as an art. His work draws its greatest value from the fact that the law of Evidence, properly restricted in scope, permits scientific treatment to an extent and in a degree impracticable, if not impossible, in any branch of substantive law. Positive law deals not so much with the ideal as with the utilitarian. Incessantly, scientific symmetry is marred by considerations of assumed public policy—by the desire to announce a rule which, in a majority of instances, will be best for society as a whole. The object of the law of Evidence, on the contrary, is an ideal one—the ascertainment of truth. Evidence is a tool and not a product; a means of getting at something, not the thing in itself considered.

Its proper field is, simply, that portion of the doing of justice which consists in this ascertainment of truth. But this, in turn, this ascertainment of truth, is precisely the object which all science, in every branch of human knowledge, proposes to itself. Obviously, therefore, Evidence may be treated from a scientific point of view; for the processes by which the truth of a disputed proposition of fact may be ascertained are not prescribed by any rules of substantive law or any canons of administration, but are primarily based in the absolute reality of things. In other words, the rules of Evidence are, properly, those of thought. In any consideration of the scientific treatment of Evidence, the work of Mr. Best, presenting, as it does, most that is still valuable in the studies of Mr. Jeremy Bentham, is now and will long continue to be illuminating and helpful.

The American editor is impressed with the conviction that the need of insistence upon a dominating influence for scientific principle in the treatment of Evidence was seldom, if ever, greater than at the present time. The undisputed supremacy of the transitory, incidental, inexact, and empirical in the administration of the law of Evidence has so confused and blended the principles of Evidence with the rules of substantive law, or those of pleading and other branches of procedure, as to result, when coupled with use of the same term or phrase in several distinct and often discordant meanings, in a state of affairs which closely resembles chaos. When to this situation is added the complicating theory that the presiding judge is a subordinate factor in a trial as compared with the jury; and due allowance is made for the further fundamentally erroneous proposition that a litigant has a right, as a matter of law, to the observance of a precedent in connection with the administration of the rules of Evidence which an appellate court will protect on appeal by reversing the judgment—presuming prejudice from error—an almost intolerable condition arises. The wheels of judicial administration ineffectually turn in a weary round of trial, reversal, and retrial until from the abortive process develops a congestion of business by which the wheels themselves are often chronically clogged—with a delay of justice tantamount, in many instances, to its denial.

American civilization, like that of any other free people, rests, in the ultimate analysis, upon doing speedy and complete justice between man and man. Confidence in the best human discharge of this God-like function is, as it were, the very cement of society, which holds its varied classes together. Confessedly, the highest obligation which the legal profession owes to the

community is to see to it that this confidence is justified and increased. And yet a very general feeling is to the effect that the administration of law is uncertain, to say the least; an imperfect and inadequate means for the attainment of justice. This feeling, in civil matters, results in the jettison of part of one's just rights, by way of compromise, in order to obtain any rights whatever without inordinate expense and within a reasonable time. In dealing with crime its effect is shown in general lawlessness, in the emotionalism of juries or the savagery of lynching.

It cannot well be asserted that this situation—this general disrespect for law, not as for something which is corrupt, but as for something which is impotent to give justice or punish crime—is due entirely to the degradation of the law of Evidence from a scientific system for reaching truth to a bundle of empirical rules with which, as with cords, courts have been content to tie the hands of justice so that she may not properly use her sword. What may with confidence be said is that no single step could be so quickly and so helpfully taken as to place the subject of Evidence and its practical administration on a proper scientific basis; to define correctly its field, and maintain the landmarks so established.

The changes required for taking such a step would, in main, be three: (1) Words and phrases now used in confused and interblended meanings must be employed in a single sense. (2) The rules of evidence now constantly mingled with or mistaken for those of substantive law or other branches of procedure must be replaced in their proper sphere. (3)* The conception that a litigant has a vested right in the application of a rule of evidence to the facts of his case as a matter of law;—in other words that the doctrine of *stare decisis* extends to the application of a principle of administration,—must be abandoned.

(1) The use of various meanings for the same term is so frequent and pronounced, while yet unnoticed, that it well may happen that in the trial court the counsel are apparently talking about the same thing when, in reality, they are discussing, each right as to what he is talking about, different ideas embraced in the ambiguity of a single term or phrase; that the court in ruling on the contentions of counsel uses the terms employed by them in still a third sense, while yet apparently supposing himself to be dealing with the proposition before him; and that finally the appellate court, honestly imagining itself to be passing on the points raised by counsel in the trial court, is in reality passing on a fourth proposition entirely its own. This evil is greatly intensified by the fact that it is precisely the most common phrases such as "Burden of Proof," "Presumptions," or "Res Gestæ" that are thus employed.

(2) The open exercise of the right of the substantive law to regulate the law of Evidence, as by a Statute of Frauds or a Statute of Wills, is not the mischief from which the law of Evidence suffers. The dangerous thing is not the influence of the substantive law on the law of Evidence, but of its subtle, concealed, and unnoticed presence in the law of Evidence. To say, as is commonly done, that evidence is or is not admissible to prove a given fact, when the meaning is not that the fact cannot be proved in the *particular* way suggested, but that it is not within the issues or not an element of the right or liability as defined in substantive law, and, therefore, cannot be proved in *any* way, is quite adequate to deposit the whole *corpus juris* within the apparent boundaries of the law of Evidence. Indeed, a current serial publication is well known to be stating in encyclopædic form the entire body of substantive law to general professional acceptance as nothing unusual by the use of these simple formularies. //

It cannot well be doubted that while most of this is at present due to loose thinking or careless talking, much, especially in the beginning, was the deliberate work of clear headed judges desirous of perfecting the substantive law without appearing to do so. It seemed to them desirable to preserve the fiction of following precedent and to avoid the appearance of judicial legislation of which in many instances they should rather have been proud. To accomplish this the readiest instrument in the hand of the judge was his admitted power to deal with questions of evidence. This was, as it always should have remained, a part of the judicial function of administration, of which the power to deal with witnesses has always remained unimpaired; as a survival of an original judicial position from the abandonment of which much evil has ensued.

Whatever may have been the gain to the cause of justice from this well-intended subterfuge, the price which justice has paid and is now paying for it is enormous. So skilfully was the work done so entirely without seam or joint was the dove-tailing of substantive law and the law of Evidence, that the test between the true and false wearers of the livery of evidence has been lost, the courts have forgotten the clue themselves and wander, with counsel, witnesses, and parties, as it were, in a magic maze or an enchanted forest where several entirely different things are made to bear the same name, to one of which alone it rightfully belongs; where certain of the persons met with wear their own proper clothes, and others are dressed in borrowed clothes which do not fit them, but which they claim as theirs, though they cannot tell and do not in the least know whence they got them; where one may usually by fixedly looking upon an apparently unfamiliar face suddenly become aware, greatly to his surprise, that through the lineaments of the stranger at which he is gazing is smiling the face of an old friend supposed to be far away.

(3) Yet perhaps the more serious result of this process is that it has eliminated a large part of the precise judicial function on which it was originally based. Substantive law was introduced into the law of Evidence by means of the administrative power of the court to deal with questions of evidence. But when the substantive law was introduced and so intrenched that it could not readily be recognized, the administrative power to deal with evidence was itself gone. *Quoad* the element of substantive law, the right of appeal and reversal on appeal, evidently could properly be claimed by the party aggrieved. If the element of substantive law could not be separated, the right of revision on appeal clearly attached to the entire ruling. It needed little argument to establish that the court could not lay down to the jury a proposition of positive law under the guise of a "presumption of law" or in the phraseology of the "parol evidence rule" and at the same time withdraw from the parties the right to have the propriety of such a ruling tested in an appellate court. Thus has arisen the anomaly that a party is deemed to have a right to insist upon the application to his case, as a matter of law, of the same administrative ruling which the court in a somewhat similar case applied to the facts of that case; although in point of principle he has no more right to insist on such an application than he would have to demand that the judge grant him a continuance, or order a separation of witnesses, merely because another judge did so under a somewhat similar state of facts.

It should be more clearly perceived that practically the only proper substantive right which a litigant has in the administration of Evidence is to the exercise of *reason*, including the right to prove his case, within the limits prescribed by reason, by the most probative evidence in his power.

THE CIVIC SIDE OF LAW.

James Bradley Thayer was known to a whole generation of students at Harvard Law School as a sympathetic and inspiring lecturer. Through his collections of Cases on Evidence and on Constitutional Law, he was known to the legal profession as a sound and profound scholar. They were looking with eagerness to the publication of his projected treatises on the whole Law of Evidence, and on American Constitutional Law.

His untimely death in 1902 left these projects unaccomplished. He had written, however, from time to time discussions of some of the important branches of both topics. In order that these should not be lost to permanent literature, his son, Ezra R. Thayer of the Boston Bar, has gathered them, with explanatory notes, in a handsome volume. As a frontispiece he publishes the best portrait of Prof. Thayer which has ever appeared. This alone would commend the volume to the author's many admirers and friends.

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All deeply interesting to the legal profession, a majority of the essays also appeal to the thoughtful non-professional reader.—*The Boston Advertiser*.

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Legal Education.—To anyone interested in this subject we shall be glad to send without charge the Boston University School of Law Bulletin for the year 1908, containing two addresses on *Unity in Modern Education*: I. General View, Historical and Psychological, by Brooks Adams; II. Education in the Concrete; the Law School, by Melville M. Bigelow.

Not for the Court to Decide.—The judge decided that certain evidence was inadmissible. The attorney took strong exception to the ruling and insisted that it was admissible.

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A BIT OF ANTIQUE BIBLIOGRAPHY.

Bibliography is much like genealogy, a fascinating study, with constant surprises, unimportant perhaps, but always interesting. For instance:

The Lawyers' Reference Manual tells us that Plowden's "Commentaries or Reports" was published in 1571, 1578, 1584, 1588, etc., leaving an inference that the whole work was first published in 1571; and no hint to the contrary appears in the old catalogues and bibliographies.

But now turns up in our stock a folio volume of which the title page reads "Cy ensuont certeyne Cases Reportes, per Edmunde Plowden . . . puis le premier imprimier de ses Commentaries & ore a le seconde imprimier de les dites Commentaries, a ces addes."

We are not strong on Law French, but think this means "Cases since the first edition, now added to the second edition." The date of the imprint is 1584.

The volume begins with Folio 403. On comparing it with the last edition of Plowden we find that the second volume (or more properly "Second Part" of the Commentaries or Reports) begins with page 403, and corresponds with the text of our folio volume.

From this we infer that what is now the first volume of Plowden was issued by itself in 1571 and perhaps reissued in 1578, and that either to the 1578 or to still another reissue in 1584 was appended this second part of new cases, as a supplement paged right on from Part I.

Has any reader seen a 1584 edition of volume one?

C. C. S.

A SCARCE AMERICAN IMPRINT.

Latch's King Bench Reports.

Latch was published originally [London, folio, 1661] in French, the only form in which, even at this day, it is known in England. It is curious that while Latch, an Englishman, should have written his Reports in French, M. Martin, a Frenchman, while resident and naturalized in America, should have translated them into English.

Francis Xavier Martin, a native of old France, and afterwards a distinguished jurist of Louisiana, published in 1793 a translation of this reporter. Martin was originally a printer in North Carolina, and the book, which is now very scarce, was issued "From the Translator's Press," at New Bern, in that state.

Latch's Reports, as they were not published during his lifetime, suffer much from not having been corrected by the parental hand. This want is glaringly conspicuous in many parts, but the translator did not presume to correct the deficiency.

He separated into distinct paragraphs the statement of the cases, the arguments and the decisions, and substituted the use of the first, to that of the third person.

He did much original work, increasing the value of his edition over the original. At the end of most cases he gave references taken from a manuscript of Judge Dewey, an early North Carolina jurist. In a number of places,

citations are made to Martin's Collection of English Statutes in Force, 1792. He arranged the names of the cases in a manner more strictly alphabetical; those of the parties, both in the common and in the universal order, and substituted an index, entirely new, to the former.

We know of but three copies of this unique work. One is in the Kellew Collection in the Library of Congress. One we now have in stock. As a specimen of early American printing it is interesting. Practically it is of much value, as it makes the matter in Latch available to the modern practitioner, not ordinarily familiar with Norman-French.

F. E. C.

Roberts and Wallace's Employers' Liability. Fourth Edition.—The Fourth Edition of Roberts and Wallace's "The Common Law and Statutory Duty and Liability of Employers as well to the Public as to Those Employed," has just been issued.

The authors in this edition have attempted to "explain exhaustively and in due sequence the principles of all the liabilities of an employer for injuries to person or property. It has thus been found necessary to discuss the position of a person who employs others in or about operations undertaken by him in relation to:—(a) members of the public generally; (b) persons whose business or pleasure brings them upon his premises, or in contact with his operations; (c) persons not in his service, but who are otherwise engaged in such operations; and (d) persons in his own service."

The Fatal Accidents Act, 1846, the Employers' Liability Act, 1880, and the Workmen's Compensation Act 1908, have all been dealt with in separate chapters. The Workmen's Compensation Rules of 1907 and 1908, together with explanatory memorandum in regard to the rules of 1907, are given in an appendix to the book. It will thus be seen that the book covers a much broader ground than the ordinary treatise on a master's liability to his servants. The book consists of pages lxxxii + 1014 + (120); English buckram; \$9.50 delivered.

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"This translation is, I believe, the first made by a person more familiar with English than French law, if I may judge from the internal evidence contained in previous translations. It is the only translation which gives the Code as amended up to date, and containing notes from the works of the leading French commentators, and which are explanatory of French legal terms. Occasionally I have been tempted to make comparisons between English and French law."

CASES JUDICIALLY NOTICED.

Few books are more useful to the legal profession than those which guide it through the maze of myriad precedents. Among such guides, one of the best is Talbot and Fort's **Index of [English] Cases Judicibly Noticed**, a second edition of which has just appeared. (\$9.50.) The first edition was published eighteen years ago, and this one is naturally much changed and enlarged.

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WHAT IS THIS BOOK?

We have before us a thick folio volume, in old binding, printed at Stockholm in 1665-6. It is composed of eight different treatises or collections, bound up together.

The first title page, in crabbed old-Gothic type, reads somewhat thus: Swerikes Landzlagh efter Com honär off fordom then Stormäktige Höghborne Furste och Herre Herr Carl then Nijonde Swerikes, Gothes, Wendes, Finnars, Carelers, Lappars i Norlanden, the Caijaners och Esters i Liifland u. Konung. Ofwersedd *confirmaterat*, oct Uhr 1608, *publicerat* worden.

A sub-title seems to be a dedication to Carl then Elloffte, and other titles bring in the names of Gustaff Adolfss, Byrgher Magnusa Son (Upplandz), Knut Erik (Ostgötha), Carl den Elloffte again (Ludhermannia); and again (Wästmannia), Carl then Nijonde (Hälsinge).

This looks like a collection of fundamental Scandinavian laws and probably has some connection with the first edition of the Scandinavian Code of Kong Christian den Femtis, 1683 (advertised in the April 1908 Leg Bib.), the foundation of Danish, Swedish and Norwegian law.

STARE DECISIS IN HOLLAND.

"The oldest decisions of the Supreme Court (in Holland) that I have been able to find are in a collection published by Naeranus at Rotterdam in 1662. The preface might serve as preface to a volume of English reported cases. The author tells us that the weight attached to the decisions of Superior Courts is such that, although not actually regarded as law, they are of such authority as to pass for law. These decisions, coming from judges appointed by the sovereign power, are regarded as decisive interpretations of the law, and are binding on all until amended or altered by some legislative enactment."—Wessels, *History of Roman-Dutch Law*, p. 237. [Eleven other reporters of early Dutch decisions are mentioned by Wessels as authority.]

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SKILLMAN'S NEW YORK POLICE REPORTS. 1830.

This is certainly a curious volume. It was written in 1828-29, is illustrated with engravings, so says the title page, and is dedicated to the Police Magistrates. The preface is so out of the ordinary that we copy it in full:—

Custom, all-prevailing custom, hath decreed, that a Preface shall accompany, (as a sort of pioneer,) every original work or compilation, which issues from the press, whether it imparts wisdom, wit or folly, still, a preface is requisite.

Many of the following "Policies," have never been published before. To those who would wish to know why I publish these "Policies," in a volume, I would answer, 1st, It is by request. 2d, The policies will exhibit to the public the arts and devices which are resorted to by the idle and iniquitous. 3d, I have been informed that these "Policies" will be both useful and amusing. The public will determine. 4th, every one, no doubt, has heard the Spanish Epitaph. The following is a translation:—

"I was well
I wish'd to be better,
I took medicine,
And,
Here I am."
I can say of myself,
I was well,
I wish'd to be better,
I embarked in an expensive and hazardous business,
And,
Here I am,
With pockets
M. T.

VAUX RECORDER'S DECISIONS. PHILADELPHIA, 1846.

The title page describes this volume as being the "reports of some of the criminal cases on primary hearing, before Richard Vaux, Recorder of the city of Philadelphia, together with some remarks on the writ of habeas corpus; and forms of proceeding in criminal cases."

The preface states that "a principal inducement to their publication, was to call attention to the importance and responsibilities of the magisterial office, as a com-

ponent part of the judicial department of the government."

This volume is offered occasionally at auction, but always brings a high price.

PENNSYLVANIA STATE TRIALS. PHILADELPHIA, 1794.

This work was compiled by Edmund Hogan. This particular volume was evidently designed to be the beginning of a series, as the title page states that it is Vol. 1. No other volumes were apparently published. This volume contains an account of the impeachment, trial and acquittal of Francis Hopkinson and John Nicholson. Francis Hopkinson was a judge of the Court of Admiralty for Pennsylvania during the latter part of the eighteenth century. He was an author of great merit, and published a volume of admiralty reports, now very scarce. This volume should be included in all collections of Pennsylvania material.

THOMPSON'S UNREPORTED TENNESSEE CASES. ST. LOUIS, 1878.

This is one of the curiosities of American law-reporting. The reporter, Seymour D. Thompson, later became famous as a legal editor and author.

The first page of the volume, headed "In the Nature of an Apology," says:—

"The publication of this book was decided upon some years ago, when author and publisher were both new in their respective roles. The publisher was grossly imposed upon by the foreman of his printing office, who proved to be a man whose rascality was only equaled by his ablebodied incapacity. **The publisher cheerfully absolves the author from all responsibility for errors, and for the issuing of the work with its imperfections.**"

We are informed that the volume, after issue, was withdrawn at the request of the Tennessee Supreme Court, or suppressed by the author when he acquired reputation as a judge and writer.

HUTTON. COURTS OF REQUESTS: their Nature, Utility, and Powers described, with a variety of cases, determined in that of Birmingham. 8vo. 1787.

Bound in this volume is: "A Dissertation on Juries with a Description of the Hundred Court, as an Appendix to the Courts of Requests." Birmingham, 1789. This appendix is not usually found bound in with this volume.

The cases reported are examples of shrewd common sense applied to perplexing facts, in the style of Sancho Panza.

SPECIALL AND SELECTED LAW CASES. concerning the Persons and Estates of all men whatsoever. Collected and gathered out of the Reports, and Year-Books of the Common-Law of England. London. Printed by M. F., and are to be sold by William Lee and Daniel Pakeman, at the signe of the Turks-head, and Rainebow, in Fleet-street, 1648. Small 4to. 303 pages.

This is one of the very scarce reports that turn up only at rare intervals and sells at auction at a high price.

YEAR BOOKS. "The Abridgement of the Boke of Assises, lately pused over and corrected, and nowe newly imprinted by Rycharde Tottle, the laste daye of September. An. Do. 1555."

There were two different editions of this Abridgment of the Book of Assises. This is the one numbered 2 in the Harvard Law Review Year-Book Bibliography.

Guernsey. Le Livre des Actes des Etats de l'Isle de Guernesey, 1605-1650. 1856. This volume, in 12mo, consists of parts 1 to 8, which ends abruptly at page 384, no other parts having been published.

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[If you have a taste for books of this class, send for our List 55, "Scholarly, Historical and Interesting Law Books," about 1500 titles. See also list in April Leg. Bib.]

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		Year Book. Le Liver des Assises et Plees del Corone (etc.). Ore nouvellement imprimée, and corrigée. Folio. Londini Ex Typographia Societatis Stationariorum. Anno Domini 1606	10.00

BRITISH COLONIAL REPORTS, ETC.

In the January *Leg. Bib.* we listed what was probably the finest collection of this material that had ever been collected at one time in the stock of any dealer. That collection has been broken up and portions of it sold to leading law libraries.

We still have on our shelves, and offer subject to previous sale, the items listed below.

It would be well to designate on this list what is now lacking from your collections and write to us at once for prices. We have a few duplicates.

AUSTRALIA.

Commonwealth.

Commonwealth Law Reports. 4 vols. 1903-1907.
 Commonwealth Law Review. 4 vols. 1902-1907.
 Commonwealth Statutes. 2 vols. 1901-1905.
 Commonwealth Statutory Rules and Orders. Vol. 1. 1901-1905.
 Federal Convention Debates. 4 vols. 1897-98.
 Judicial Power of the Commonwealth, Quick & Groom. Cloth. 1904.
 Constitutional Law, Clark. 2d ed. Cloth. 1905.

Victoria.

A'Beckett's Reserved Judgments, 6 parts. 1846-1851.
 (A facsimile reprint bound in one volume. Supply limited.)
 Argus Law Reports, vols. 9-11. 1903-1905.
 Victorian Statutes, 5 vols. 1887.
 — Sessional Acts, 1877, 1884-1889, 1891-1900, 1902-1905, 22 vols.
 Victorian Cases Judicially Noticed, Perain, 2 vols. 1846-1907.
 Transfer of Land Act, 1890, Duffy & Eagleson. Cloth. 1895.
 Gold Mining in Australia and New Zealand, Armstrong, 2d ed. Cloth. 1901.
 Local Government Manual, Gilchrist. Cloth. 1879.
 Banking Law, Hamilton, 2d ed. Cloth. 1900.

New South Wales.

Legge's Decisions, 2 vols.; N. S. W. Reports, 14 vols.; Knox; Knox & Fitzhardinge, 2 vols.; N. S. W. Law Reports, 21 vols.; N. S. W. State Reports, 6 vols. 1825-1906.
 Sessional Acts, 1891-2, 1892-3.
 Real Property Act, Canaway. 1902.

Queensland.

Supreme Court Reports (1860-1883), 5 vols.; Beor; Law Journal Reports, 11 vols.; State Reports, 1902-1906, 22 vols. 1860-1906.
 Queensland Digest, 2 vols. 1860-1905.
 Queensland Justice of the Peace, 2 vols. Reports and Journal. 1907.
 Statutes. Pring's Statutes, 3 vols. 1862-64.
 Sessional Acts, 1893, 1894, 1906, 3 vols.

South Australia.

Law Reports, 1904-1907, 4 vols.

Tasmania.

Nicholls & Stops, 2 vols.; Law Reports, 3 vols.; all published. 5 vols. 1897-1907.
 Acts of Parliament, 1895-1900, 6 vols.

West Australia.

Law Reports, 9 vols. 1898-1908.
 Acts of Council, 1884.
 Acts of Parliament, 1901-2 to 1903-4, 3 vols.

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 Statutes, 1892, 1903, 1904, 1905, 4 vols.

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Supreme Court. Menzie, 3 vols.; Searle, 5 vols.; Watermeyer; Roscoe, 3 vols.; Buchanan, 9 vols.; Foord; Juta, 22 vols. 44 vols. 1828-1905.

Cape Law Times Reports, 16 vols. 1891-1906.

Cape and South African Law Journal, 24 vols. 1885-1907.

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Transvaal.

Kotze, Province Reports; Kotze, Macfadyan & Barber, 4 vols.; Leonard; Webber, 4 vols.; Transvaal Law Reports, 10 vols.; Barber's Gold Law Cases. 21 vols. 1877-1906.

Transvaal Colony Proclamation, 1900-1902.

Orange River Colony.

O. R. C. Law Reports, 4 vols. 1903-1906.
 Laws O. R. C. 1901.
 Ordinances, 1905, 1906.

Natal.

Phipson, 1858-59; Finnemore, 1860-1867, 1873-1879; Law Reports, new series, 27 vols. 1879-1906.
 Statutes, Supplement. (1900-1906.)

Southern Rhodesia.

Burns-Begg. 1899.
 Statutes, Evans Compilation (1889-1898), 1899.
 Annual Laws, 1899-1901, 3 vols.

East Africa Protectorate.

Hamilton. (1897-1905.)
 Orders in Council, Regulations, etc., 1876-1902. fol.

Gold Coast.

Fanti Law Reports, 2 vols. 1906.

Mauritius.

Ordinances, 1891, 1892, 1893.

Republic of Liberia.

Law Reports. (1861-1907.) 1 vol. 1908.

CANADA.

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Canada Supreme Ct. Reports, 38 vols. 1875-1907.
 Canadian Criminal Cases, 12 vols. 1898-1907.
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 Coutlee's Supreme Court Cases. 1906.
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 Canada Law Journal, 53 vols. 1855-1907.
 Canadian Law Times, 27 vols. 1881-1907.
 Statutes. Dominion Statutes, 38 vols. 1867-1905.
 Provincial Statutes, 20 vols. 1841-1866.

Ontario, Formerly Upper Canada.

Ontario Law Reports, 15 vols. 1901-1908.

Statutes.

Revised Statutes, 2 vols. 1887.

Annual Statutes, 21 vols. 1887-1906.

Quebec.

Stuart's King's Bench Reports. (1810-1835.)
 Montreal Law Reports, 14 vols. 1884-1891.
 Quebec Official Reports, S. C., 27 vols. 1892-1906.
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 Jugements et Délibérations du Conseil Souverain. 6 vols. (1663-1634, 1705-1716.) 1885-1891.
 Statutes. Lower Canada Statutes and Orders of Special Council (1836 wanting Ch. 59). 16 vols. 1793-1840.
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Stockton's Admiralty Reports, 1897.
 Statutes. Annual Statutes, 21 vols. 1877-1905.
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 Western Law Times, 6 vols. 1890-1895.

British Columbia.

Martin's Mining Cases. (1867-1902.) 1903.
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Northwest Territories.

Territories Law Reports, 4 vols. 1885-1905.

Prince Edward Island.

Annual Statutes, 1868-1906, 40 vols.

Saskatchewan.

Statutes, 1906.

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Minot's Digest of Laws. 1865.

Laws, 1893, 1896, 1897, 1898.

Leeward Islands. Acts of Assembly, 1690-1730. Lond. 1734.**Turks and Caicos Islands.** Duncombe's Laws. 1862.**Windward Islands.** Appeal Cases (1888-1904). 1905.**British Honduras.** Consolidated Laws, 1887.**British Guiana.**

Supreme Court Judgments, 1897.

Digest of Supreme Court Cases, 1901-1905, 1906.

Firth's Compiled Laws, 1864.

Bermuda.

Acts, 1690-1714, folio. London, 1719.

INDIA.**Empire. Digests.** Morley's Analytical Digest, 3 vols. 1850.

Woodman's Digest, 6 vols. (1836-1900). 1902.

Statutes. Unrepealed General Acts, 6 vols. 1834-1903.

Theobold's Compilation of Legislation Acts, 1834-1867, 5 vols.

Legislative Acts, 1868, 1869, 1872-1874, 1876, 1877, 1880, 1882, 1884, 1889-1898.

Proceedings of the Legislative Council, 1854-1861, 7 vols.

Privy Council. Sutherland's Appeals, 3 vols. 1831-1880.

Moore's Indian Appeals, 14 vols. 1836-1872.

Law Reports, Indian Appeals, 17 vols. 1872-1885.

Assam. Code. 1897.**Baluchistan.** Code. 1890.**Bengal.** Bengal Law Reports, 15 vols. 1868-1875.

Calcutta Law Reports, 13 vols. 1877-1883.

Revenue, Judicial and Police Journal, 5 vols. 1863-1865.

Burma. Moyle's Criminal Circular. 1872-1892.**Central Provinces.** Law Reports, 17 vols. 1888-1904.**Cochin and Travancore.** Reports, vol. 1. 1906-7.**Kathiawar.** Law Reports, 16 vols. 1891-1906.**Lower Provinces.** Code, 3 vols. 1878.**Madras.** Strange's Reports, 2 vols. 1827.**Mysore.** Chief Court Reports, 9 vols. 1896-1906.**Northwest Provinces.** Oudh Cases, 8 vols. 1898-1905. Code. 1886.**Sindh.** Hoonahan, 2 vols.; Leggett; Sindh Sadar Reports, 3 vols. 6 vols. 1870-1899.**CEYLON.**

Ramanathan (1820-33), (1843-55), (1860-68), (1877), 5 vols.; Supreme Court Circular, 9 vols.; Browne, 3 vols.; New Law Reports, 8 vols.; Balasingham, 2 vols.

STRAITS SETTLEMENTS.

Kyshe Supreme Court Reports, vols. 2 and 3.
 Law Reports, vol. 1, 1893.

Statutes. Harwood's Compiled Ordinances, 2 vols. 1886. Ordinances, 1867-1886 and Index, 21 sessions in 11 vols.

CYPRUS.

Law Reports, 6 vols. 1893-1905.

CHANNEL ISLANDS.

Guernsey. Cases. 1607. [Reglemens des Commissaires Royaux en 1607, 1814.] Text in English.

Actes des Etats, 1605-1650, 1856. Text in French.

Jersey. Code of Laws, 1771. Text in French.

ORIGIN OF LAW REPORTING.

Here is an interesting extract from Prof. Maitland's Selden Society edition of the Year Books of 1 and 2 Edward II., a work which itself ranks as a volume of English reports:—

As early as 1285, an ever memorable step was taken. Some one was endeavouring to report in the vernacular—that is, in French—the oral debates that he heard in court. In 1293 a fairly continuous stream began to flow. This surely is a memorable event. When duly considered it appears as one of the great events in English history. Today men are reporting at Edinburgh and Dublin, at Boston and San Francisco, at Quebec and Sydney and Cape Town, at Calcutta and Madras. Their pedigree is unbroken and indisputable. It goes back to some nameless lawyers at Westminster to whom a happy thought had come.

What they desired was not a copy of the chilly record, cut and dried, with its concrete particulars concealing the point of law, the record overladen with the uninteresting names of litigants and oblivious of the interesting names of sages, of justices and serjeants. What they desired was the debate with the life-blood in it: the twists and turns of advocacy, the quip courteous and the countercheck quarrelsome. They wanted to remember what really fell from Bereford, C. J.: his proverbs, his sarcasms: how he emphasised a rule of law by *Nom Dieu!* or *Par Saint Pierre!* They wanted to remember how a clever move of Serjeant Herle drove Serjeant Toudeby into an awkward corner, or how Serjeant Passey invented a new variation on an old defence.

Let us look at a few of the sayings of Bereford, C. J., which are written down, for they illustrate the spirit of the Year Books. It is not enough that we should know that he overruled a plea and ordered a serjeant to plead over. What he said was this: "We wish to know whether you have anything else to say, for as yet you have done nothing but wrangle and chatter!" One day when he was laying down the law, Westcote interjected a remark. "Really," said the great man, "I am very much obliged to you for your challenge: not for the sake of us who sit on the bench, but for the sake of the young men who are here. Nevertheless you must plead over." It is not enough that we should know how he disposed of a case of warranty in which it was argued that in a particular event a man might get an exchange in value and yet hold the land that had been warranted. We must know the proverb into which he packed the sum and substance of the case: "They would like to have the chicken and the ha'penny as well." Then listen to a little outburst concerning compurgation. "Now God forbid that any one should get to his law about a matter of which the country can take cognizance, so that with a dozen or half a dozen ruffians he could swear an honest man out of his goods!"

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In our January number we offered for sale 114 sets. We stated that it was the most complete collection ever offered and in view of increasing demand and limited supply it was doubtful if a similar collection could be made up again.

That collection was purchased practically *in toto* by one of our growing libraries in the middle west. Many of the duplicate sets were purchased by other libraries. Our collection has now been reduced to the sets listed below. Of some of the sets we have duplicates. If you see any set listed here which you want, or if you would like to make a beginning for a collection of periodicals by buying a few of the more common and cheaper sets, write us for separate prices on these.

American Periodicals.

- Albany Law Journal, 68 vols. (Current.) 1870-1907.
- American Bar Association Reports, 30 vols. 1878-1906.
- American Jurist, 28 vols. 1829-1843.
- American Law Journal (Hall), 6 vols. 1808-1817.
- American Law Times Reports, 10 vols. 1868-1877.
- American Law Magazine, 6 vols. 1843-1846.
- American Law Register, 55 vols. (Current.) 1852-1907.
- American Law Review, 41 vols. (Current.) 1866-1907.
- Carolina Legal Repository, 2 vols. 1814.
- Central Law Journal, 66 vols. (Current.) 1874-1908.
- Chicago Legal News, 39 vols. (Current.) 1869-1906.
- City Hall Recorder (Rogers), 6 vols. 1816-1820.
- Cleveland Law Record. 1856-1857.
- Columbia Law Review, 7 vols. (Current.) 1901-1907.
- Cornell Law Journal, 1 no. only published. June, 1894.
- Counselor, 5 vols. 1891-1896.
- Criminal Law Magazine, 18 vols. 1880-1896.
- Green Bag, 19 vols. (Current.) 1889-1907.
- Griffith's Law Register, 2 vols. 1822.
- Harvard Law Review, 21 vols. (Current.) 1887-1908.
- Insurance Law Jour., 35 vols. (Current.) 1871-1906.

- Journal of Jurisprudence, Hall, 1821. 1821.
- Journal of Law. 1831.

- Journal of Law School, Taylor. 1822.

- Kentucky Law Reporter, 29 vols. (Current.) 1880-1906.

- Law, The, Chicago, 2 vols. 1889-1890.

- Law Book News, 2 vols. 1895-1896.

- Law Central. 1881.

- Law Reporter, Boston, 27 vols. 1839-1866.

- Law Students' Helper, 14 vols. (Current.) 1892-1906.

- Legal Intelligencer, vols. 20 to 64, 45 vols. 1863-1906.

(The early portion of this set is practically unobtainable, and is found in very few libraries.)

- Livingston's Law Magazine, 3 vols. 1853-1856.

- Michigan Law Review, 6 vols. (Current.) 1902-1908.

- National Bankruptcy Register, 19 vols. 1867-1880.

- National Bankruptcy News and Reports, 4 vols. 1898-1901.

- New York Law Review. 1885.

- New York Legal Observer, 12 vols. 1842-1854.

- Pacific Coast Law Journal, 12 vols. 1876-1884.

- Railway and Corporation Law Journal, 12 vols. 1887-1893.

- Reporter, The, 24 vols. 1876-1887.

- San Francisco Law Journal. 1877-1878.

- Southern Law Review, 11 vols. 1872-1883.

- Southern Law Review, N. S. 1901-1902.

- Virginia Law Journal, 17 vols. 1877-1893.

- Virginia Law Register, 12 vols. (Current.) 1895-1907.

- Washington Law Reporter, 34 vols. (Current.) 1873-1906.

(Pagination complete, but a few early titles and indexes wanting, as usual.)

- Western Jurist, 17 vols. 1867-1883.

- Western Law Monthly, 5 vols. 1859-1863.

- Yale Law Journal, vols. 1-3, 5-17. (Current.) 1891-1908.

English, Scotch, Irish and British Colonial.

- Brief, The, London, 3 vols. in 1. 1894-1895.

- Canada Law Journal, 43 vols. (Current.) 1865-1907.

- Canadian Law Times, 27 vols. (Current.) 1881-1907.

- Cape & S. African Law Jour., 24 vols. (Current.) 1884-1907.

- Cape Law Times Reports, 16 vols. (Current.) 1891-1906.

- Collectanea Juridica, 2 vols. 1791-1792.

- Commonwealth Law Review, Aust., 4 vols. 1903-1907.

- Gibson's Law Notes, 25 vols. (Current.) 1882-1907.

- Journal of Jurisprudence, 35 vols. (Scotch.) 1857-1891.

- Juridical Review, Scotch, 19 vols. (Current.) 1889-1907.

- Jurist or Quarterly Journal, 4 vols. 1827-1833.

- Justice of the Peace, 70 vols. (Current.) 1837-1907.

- La Themis, Quebec, 5 vols. 1879-1883.

- Law Chronicle, Edinburgh, 4 vols. 1829-1832.

- Law Quarterly Review, 23 vols. (Current.) 1885-1907.

- Legal News, Quebec, 20 vols. 1878-1897.

- Legal Observer, 52 vols. 1830-1836.

- Legal Reporter, Dublin, 2 vols. 1840-1842.

- Local Courts & Munic. Gaz., Ontario, 8 vols. 1864-1872.

- Monthly Law Digest and Reporter, Montreal. 1892-1893.

- Scots Law Times, 14 vols. (Current.) 1892-1907.

- Scottish Jurist, 46 vols. 1829-1873.

- Scottish Law Review, 23 vols. (Current.) 1885-1907.

- Solicitors' Journal, 51 vols. (Current.) 1857-1907.

- Upper Canada Law Journal, 10 vols. 1855-1864.

- Weekly Reporter, 54 vols. (Discontinued.) 1852-1906.

- Western Law Times, Manitoba, 6 vols. 1890-1895.

Foreign Periodicals.

- Uebersicht der Staats- und Rechtswissenschaftlichen Literatur. Vols. 2-40. 1869-1907.

- Juristische Blätter, 35 vols. 1872-1904.

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Bibliographic Supplement. For this number we print a supplement giving our annual lists of the latest reports, digests, statutes and text books published in the United States, Great Britain and the British Colonies during the year 1908. This supplement is not sent with the number, but will be mailed free of charge to any one who asks for it.

New Books of January, 1909. Our new books this month are the ten-year 1898-1907 Supplement to Mews' Digest, 2 vols., \$15.00; Liberian Reports, vol. 1 (only 146 copies printed for sale), \$15.00; and a new edition of Stephen's Commentaries on English Law, 4 vols., \$22.00.

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In the April number of Legal Bibliography we will give in detail Mr. Barton's plan of editing, which will collect so much valuable matter regarding early Courts and practice that we expect for Barrodall a prominent place in our law literature.

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"A valuable historical study"; "a source book"; "of immense value for reference"; "an original and immensely valuable study"; "gives the broad general principles of legislation"; "a profound study of basic principles"; "indispensable to students of American politics"; "a scholarly comparative study"; "of unusual interest"; "an invaluable treatise"; "should be in every library"; "a supplement to Bryce"; "presents present practical problems"; "should be widely read"; "of surpassing importance"; "every legislator ought to be compelled to pass a rigid examination on it."

JUDICIAL OBSESSION.

The late Professor Thayer, in his interesting "Trial by Jury of Things Supernatural" (**Thayer's Legal Essays**, p. 341) draws an illustration to an 1696 case in Scotland, from a recent American instance, as follows:—

It brings strongly to light the way in which the security afforded by legal forms and solemnities for the accurate investigation of facts may wholly break down when the men who are to do the judging have their minds saturated with certain sorts of opinion. We should be very foolish if we supposed that we are wholly rid of this sort of difficulty at the present day. It is familiar to us in some of its plainer forms. The most conspicuous illustration of it in our own time is the outcome of the electoral commission for determining who had been chosen President in 1876. On a set of questions which divided the commission, as they divided the country, sharply on political lines, we tried to make the commission judges. Most of its members, no doubt, approached the questions with a patriotic purpose to be perfectly impartial, perfectly judicial. They listened to arguments on both sides, and deliberated and gave their opinions; and they were divided, eight to seven,—precisely on party lines; and this not merely on one or two of the questions, but on every question of importance.

In the journal of the commission one may read thirty-four divisions of eight to seven, almost every one that is recorded. Some persons blamed them. But whom would you blame? I believe it is common for those who lost to blame all of those on the opposite side, as having been partisans. But of course it must not be overlooked that the minority showed precisely the same solidarity. The fact is that the human creature, do what he will, *cannot* rid his mind of preconceptions; and I suppose that we ought to thank God that it is so, that we cannot make ourselves into mere thinking machines. At any rate, so the fact is; these judicial treasures we have in earthen vessels.

THE PRESIDENTIAL ELECTION

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HON. WILLIAM H. TAFT

UNITED STATES CIRCUIT JUDGE FOR THE SIXTH JUDICIAL DISTRICT, 1892-1900

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But if it cannot, then the equitable plea is no bar to the defendant coming to a court of equity, subject, however, to the costs of the plea being controlled by the court of equity. *Ib.*

A court of equity will restrain an action for damages where the defence relied upon is an alleged agreement between the parties for the performance of certain acts to which a court of law cannot give effect. *Ib.*

Equitable Plea not Pleaded.—The 17 & 18 Vict. c. 125, s. 83, giving a right to plead an equitable defence, is only permissive, and not compulsory; and a defendant who has not exercised his option of pleading an equitable plea, may come for an injunction to restrain the action, as he might have done before that act. *Gompertz v. Pooley*, 4 Drew. 448; 28 L. J., Ch. 484; 5 Jur. (N.S.) 261; 7 W. R. 275. *S. P. Kinsford v. Swinford*, 28 L. J., Ch. 413; 5 Jur. (N.S.) 261; 7 W. R. 215.

Proceedings which would interfere with or determine Pending Suit.—In a suit by three shareholders against the directors to restrain proceedings for recovering the amount of certain calls, an injunction had been granted upon terms of plaintiffs paying the amount into court. The directors' solicitor, a shareholder, obtained judgment by default against the company for his bill of costs, and commenced proceedings against two of the plaintiffs for the amount due:—Held (following *Taylor v. Hughes*, 2 Jo. & Lat. 24) that, the defendant (the solicitor) not having denied that the proceedings had been taken for the purpose of harassing and impeding the plaintiffs in their suit, the plaintiffs were entitled to an injunction to restrain proceedings against them on the judgment, which proceedings would greatly interfere with, if not wholly determine, the pending suit. *Horn v. Kilkenny, &c. Ry.*, 1 Kay & J. 399; 24 L. J., Ch. 241; 3 W. R. 226.

Action against Executors.—If a cause for the administration of assets has been heard for further directions, and the executors have paid their balances into court, an injunction will be granted to restrain an action against the executors for breach of a covenant in a lease granted to their testator, and the master will be directed to ascertain the damages. *Sutton v. Mashiter*, 2 Sim. 513.

Action at Law pending Suit for same Matter. A court of equity in which a suit was pending would have stopped an action for trespass *vi et armis*. *York Corporation v. Pilkington*, 2 Atk. 302; 9 Mod. 273.

Injunction granted on Terms.—See *Irving v. Harrison*, 3 L. J. (O.S.) Ch. 48.

Criminal Proceedings.—Whilst suits in equity are depending, plaintiffs indict defendant's agent at the sessions where they themselves are judges, for a breach of the peace. Order made to restrain plaintiffs from proceeding at the sessions till the hearing of the cause and further order. *York Corporation v. Pilkington*, 2 Atk. 302; 9 Mod. 273.

There is no restraining power in courts of equity over criminal prosecutions. *Ib.*

Where bill is brought to grant possession, if

after that plaintiff prefers indictment for forcible entry, this court will stop proceedings upon such indictment. *Ib.*

No general jurisdiction in equity to enjoin or regulate proceedings upon indictment, but circumstances may give it; as where prosecuted by relators in an information as plaintiffs, they are subject to control by order personally affecting them; but not the defendants. *Att.-Gen. v. Cleaver*, 18 Ves. 211.

Although there may be cases in which the court of chancery will interfere to restrain criminal proceedings taken by a plaintiff in equity against the defendant to the suit in respect of the matters to which the suit relates, yet the court will not so interfere where the remedies in the proceedings in the criminal court are for a purely criminal charge. *Saul v. Browne*, 44 L. J., Ch. 1; L. R. 10 Ch. 64; 31 L. T. 493; 23 W. R. 50; 13 Cox C. C. 30.

Unless the cases raised and the objects sought are identical, the court will not prevent a plaintiff in the court of chancery from proceeding in a criminal court against the defendants to the suit in chancery: *Ib.*

Held, that a remedy in the police court, which was the personal punishment of the defendants, was so distinct from a remedy in chancery, which was the recovery of property, that the court of chancery would not restrain the criminal proceedings, and that the discretion to stay such proceedings rested with the magistrates. *Ib.*

A court of equity has no jurisdiction to restrain criminal proceedings for the recovery of a penalty imposed by an act of parliament for a breach of its enactments. *Kerr v. Preston Corporation*, 46 L. J., Ch. 409; 6 Ch. D. 463; 25 W. R. 264.

2. RESTRAINING CRIMINAL AND QUASI-CRIMINAL ACTS.

Though the court of chancery has no jurisdiction to prevent the commission of acts which are merely criminal or illegal, yet its function is to protect property, and therefore it will restrain acts which are of a criminal nature, if they are also of such a nature as to injuriously affect rights of property. *Springhead Spinning Co. v. Riley*, 37 L. J., Ch. 889; L. R. 6 Eq. 551; 19 L. T. 64; 16 W. R. 1138.

Certain members of a trade union, employed at a spinning company's mill, took offence at a reduction of their wages and left their masters' service. The association then posted in the district, and advertised in the local papers, a placard or notice, which was in substance a warning to all workmen not to seek to renew their work at the mill until the dispute was settled. The company filed a bill to restrain the printing and publishing of the notices, charging that they were part of a scheme to prevent persons, by threats and intimidation, from hiring themselves to the plaintiffs, and that persons had, in fact, been so intimidated; that the plaintiffs' business was materially injured thereby, the value of their goodwill depreciated, and the corpus of their property irreparably damaged:—Held, that the acts of intimidation complained of, though punishable as a statutable offence, were yet within the jurisdiction of equity, as tending to the destruction of property. *Ib.*

Distress by a Stranger.—Defendant, having assigned leasehold estate to plaintiff, afterwards brought an action of ejection and was non

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In 1840 the original work had become so overlaid with notes, that Sergeant Stephen, in editing the last regular edition of Blackstone, became convinced that a new work, founded on Blackstone, but freely recast, would be a great desideratum. He therefore devoted himself to the task of rewriting the Commentaries.

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in question is created to the lessors of the plaintiff, for securing an annuity of £500 *per ann.*, and all arrears thereof, payable to Sir *Ralph Cole* during his life, and after his decease for securing an annuity of £200 *per annum*, and all arrears thereof, payable to the Lady *Cole* for her life, granted *prout* the deed, in such manner, and with such remedies *prout* the deed. Sir *Ralph Cole* died, and all the arrears of rent due in his life-time were paid, and the Lady *Cole* survived him. Afterwards the Lady *Cole* died, *viz.* on *Michaelmas-day* 1704, at nine of the clock at night, being the first day of payment after Sir *Ralph Cole*'s death, and the plaintiff is her administrator. The sole question is, whether the term be void without payment of this quarter's rent, or whether this quarter's rent remains due to Lady *Cole*, so as to intitle her administrator thereto within the construction of this deed?

Rich. Wyn. pro Quer.
Tho. Parker, pro Deft.

I am of opinion that this money was due when by law it ought to be paid; therefore since the Lady *Cole* lived beyond sun-set, which was the time when the money was demandable, and to be paid by the tenant upon pain of forfeiting his lease, I think the money was due to her, and ought to be paid to her, and that her administrator is intitled to the same.

Jan. 18, 1706.

Robt. Tracy.

Note: J. Tracy told me that he advised with Lord C. J. Holt at his chambers, and that, upon view of the several authorities relating to this point, his Lordship was of the same opinion.

[181] DE TERM. S. HILLARI, 1711, B. R.

Case 44.—MITCHEL *versus* REYNOLDS. [1711.]

[Followed, *Master of Gunmakers, &c. v. Fell*, 1742, Willes, 388; *Davis v. Mason*, 1793, 5 T.R. 120. Referred to, *Gale v. Reed*, 1806, 8 East, 85. Followed, *Young v. Timmins*, 1831, 1 Tyr. 241; *Horner v. Graves*, 1831, 7 Bing. 741. Referred to, *Keppell v. Bailey*, 1834, 2 My. & K. 529; *Mallan v. May*, 1843, 11 M. & W. 665. Followed, *Wilkinson v. Wilkinson*, 1871, L. R. 12 Eq. 604; 40 L. J. Ch. 242; 24 L. T. 314; 19 W. R. 558. Referred to, *Gravely v. Barnard*, 1874, L. R. 18 Eq. 523; *Collins v. Locke*, 1879, 4 App. Cas. 686; *Rousillon v. Rousillon*, 1880, 14 Ch. D. 364. Examined, *Davies v. Davies*, 1887, 36 Ch. D. 386, 390, 397. Referred to, *Mogul S.S. Co. v. M'Gregor, Gow & Co.*, 1889, 23 Q. B. D. 627; *Clegg v. Hands*, 1890, 44 Ch. D. 509, *n.* Followed, *Nordenfelt v. Maxim-Nordenfelt Co.*, [1894] A. C. 535. See also *Smith's L. C.* 10th ed. vol. 1, p. 391.]

10 Mod. 27, 85, 130; Fort. 296.

Resolution of the court of B. R.

A bond or promise to restrain oneself from trading in a particular place, if made upon a reasonable consideration, is good. (So *Davis v. Mason*, 5 T. R. 118.) *Secus* if it be on no reasonable consideration, or to restrain a man from trading at all.

Debt upon a bond. The defendant prayed *Oyer* of the condition, which recited, that whereas the defendant had assigned to the plaintiff a lease of a messuage and bakehouse in *Liquorpond Street*, in the parish of *St. Andrew's Holborn*, for the term of five years: now if the defendant should not exercise the trade of a baker within that parish during the said term, or, in case he did, should within three days after proof thereof made, pay to the plaintiff the sum of fifty pounds, then the said obligation to be void. *Quibus lectis et auditis*, he pleaded, that he was a baker by trade, that he had served an apprenticeship to it, *ratione cuius* the said bond was void in law, *per quod* he did trade, *prout ei bene licuit*. Whereupon the plaintiff demurred in law.

And now, after this matter had been several times argued at the bar, *Parker, C. J.*, delivered the resolution of the court.

OUR FIRST JUDICIAL PRESIDENT.

Will not Taft be the first president we have had who combines large judicial experience with thorough judicial temperament?

Of our twenty-six presidents, twenty have been real or nominal lawyers. Washington, the elder Harrison, Taylor, Johnson, Grant, and Roosevelt are the six who had no legal training, although the latter "took a short course of law."

Madison studied law, but never practiced. Monroe intended to practice law, but "would be happy to keep clear of the Bar if possible." John Quincy Adams practiced law four or five years. Tyler never developed into a real practitioner. Garfield studied law. This group turned to politics as a vocation early in their careers.

The actual law practice, apart from politics, of John Adams covered about seventeen years; Jefferson eight years; Jackson eight years; Van Buren five years (see also below); Polk nineteen years; Fillmore twenty years; Pierce sixteen years; Buchanan eight years; Lincoln sixteen years; Hayes sixteen years; Arthur twenty years; Cleveland eleven years; the younger Harrison thirty years; McKinley ten years.

John Adams was elected Chief Justice of Massachusetts under the provisional government in 1775, but never took his seat on the Bench. Jackson was judge of the Supreme Court of Tennessee from 1798 to 1804,—six years. Van Buren was Surrogate in New York State for five years, and as State Senator was technically a member of the "Court of Errors" for eight years.

Of these three, Jackson is the only one who had real judicial experience; but his service was rudimentary, in a rough pioneer community. One of his

biographers says of him: "He never had a legal tone of mind, or any but the crudest knowledge of law," and his whole career showed that he conspicuously lacked the judicial temperament.

Judge Taft practiced law for a few years, became judge of the Ohio Superior Court in 1887 and served three years; was Solicitor-General of the United States from 1890 to 1892; and for eight years, 1892 to 1900, was United States Circuit Judge for the Sixth Circuit. During that period he delivered several hundred opinions (see 51 to 100 Fed. Reporter), many of them on important topics, making such a reputation as an able judge that he has twice been offered a position in the United States Supreme Court. He is a learned lawyer, a sound jurist and a sensible and practical judge. In comparing his experience and his temperament with those of his predecessors, it is surely not too much to say that Taft will be "our first judicial president."

The training he has thus had, combined with his character, should stand us in excellent stead during his term of office.

A good judge should be able to select good judges. His appointments to judicial positions ought to strengthen our whole judicial system, and thus directly improve the administration of justice in the Federal Courts, and indirectly raise the tone of the Bar, and of the state courts.

A judge of law ought to be also a judge of men, and be able to appoint to political office, men of sober and judicial characteristics as well as executive ability, who will do the country's work more like judges than like partisans.

A wise judge, who has dealt with difficult points of law, ought to be a sage adviser on legislation, and a calm guide in matters of foreign policy.

BOUVIER FACILE PRINCEPS.

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CONTINENTAL LAW.

Our supply of the new Civil Code of Switzerland (Dec. 10, 1907) is temporarily exhausted, but we can obtain other copies at short notice. This compilation, the result of many years of commission and legislation, is even more interesting than the German Code. The latter is a careful blending of the laws of twenty states having similar customs and the same language; the Swiss Code is a careful blending of the laws of the three nations which are represented among the cantons of Switzerland. The edition of the Code we import is in three languages: "Schweizerisches Zivilgesetzbuch; Code Civil Suisse; Codice Civile Svizzero." \$2.50.

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Spanish law, always important in our Southwestern and Pacific States, has acquired fresh importance in consequence of our colonial possessions. The foundations of Spanish law, both "peninsular" and "ultramarine," are in the old codes, which ought to be in every library which begins to consider Spanish law. We have on our shelves a set of twelve volumes, quarto, "Los Códigos Espanoles, Concordados y Anotados; Segunda Edicion; Antonio de San Martin, Editor," 1872, etc., (\$50.00,) giving all the old laws of the Spanish kingdoms which are still sufficiently in force to be cited in the courts.

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Every page of this ornamental volume has an engraved border, each one different from every other, and the insignia of the signers of the charters are intertwined with the borders, around the text. In the index to the "Arrangement of the Heraldry," in these borders, 612 pieces of insignia are described.

There were apparently a dozen different editions of this book printed,—ordinary size and ordinary paper, large paper, Chinese paper, thick paper printed only on one side, with all manner of elegant bindings. It must have been *the* book of its generation. It is of course out of print now, but the issue was so abundant that copies are still turning up at

London auction sales. A copy of the ordinary edition, perfect inside, but shabby in binding, can be bought for \$5.00; and copies in various more perfect conditions of bookbinding can be found occasionally. We have on our shelves several of the common edition at \$5.00 or \$6.00, and three large paper copies, untrimmed, one in original cloth, one in old red half morocco, somewhat rubbed, one in modern brown half morocco. Any one of these three would cost \$10.00. We might by search in England find a China silk paper edition or one printed on one side only, for about \$25.00.

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The clear Heard's Equity Pleading \$2.50 manual founded on work by Drewry, and famed for its perspicacity.

This familiar standard, with American notes by Prof. Hutchins of Michigan Law School, is still used in law courses, and is better than many of the more pretentious treatises.

The elementary work of Judge Metcalf of the Massachusetts Supreme Court is still in use for students, and should be examined with a view to use wherever a student is starting on Contract.

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Century, from its beginning as Scribner's Monthly in 1890 to 1905, vols. 1-69. 69 vols. in green cloth binding, fresh. **\$60.00**

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The Law Quarterly Review, edited by Sir Frederick Pollock, London, annual subscription price \$3.00. Contents for October, 1908:—

Notes.

Reason and Conscience in Sixteenth-Century Jurisprudence. By Paul Vinogradoff.

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The Law of Foreign Judgments, with Special Reference to Default Judgments of English and Colonial Courts *Inter Se*. By C. C. McCaul, K. C.

Interests for Life and Quasi-Remainders in Chattels Personal. By David T. Oliver.

Domicile in Countries Granting Extraterritorial Privileges to Foreigners. By Charles Henry Huberich.

History of Contraband of War. II. By H. J. Randall.

Book Reviews.

The Law Magazine and Review, quarterly, London, subscription \$3.00. Contents for November, 1908:—

Hungarian Law. By Professor F. Nagy, LL. D., late Secretary of State in the Royal Hungarian Ministry of Commerce.

The Defects of the Debtors Act. By "Appellant."

The Assessment of Public Bodies for Income Tax. By E. J. Moore.

The Law of the Universities. By James Williams, D. C. L., LL. D.

The Origin and Growth of Copyright. By W. F. Wyndham Brown.

Communicants and the Deceased Wife's Sister Act, 1907. By the Attorney-General for the Isle of Man.

Current Notes on International Law.

Notes on Recent Cases.

Reviews.

Contemporary Foreign Literature.

The Juridical Review, published quarterly, Edinburgh, subscription price \$3.50 per year. Contents for October, 1908:—

Consideration under the Finance Acts, 1894. By P. J. Hamilton-Grierson, B. A. (Oxon), Advocate, Solicitor of Inland Revenue.

Charitable Bequests. By A. C. Black, Advocate.

Registration of Leases. By William Guy, Writer, Glasgow.

The House of Lords. III. By C. R. A. Howden Advocate.

Notes.

Reviews of Books.

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APRIL, 1909

NOTES.

Notable Auction, April 28.—See page 10 for advertisement of an auction sale of law books, half of them practical, for lawyers; half of them scholarly for collectors and libraries.

How to Get Leg. Bib.—We try to send **Legal Bibliography** regularly to lawyers and libraries who ask for it, but the only sure way to get it is to send us an order or inquiry, in prompt response to each number you receive.

To Find Our Office.—We are three miles out of town. Take a Chestnut Hill car at the Park St. subway station, and ask the conductor to let you off at Francis St. Go to the left, toward the Harvard Medical School, and find us in a large brick building on the left, formerly a school-house.

Eminent Domain.—Apropos of Nichols' new treatise on the Power of Eminent Domain, see the abstract of provisions on that subject in the Constitutions of all the American States, presented on pp. 158-161 of **Stimson's Law of the Federal and State Constitutions**.

Century Digest Complement.—Your "Century Digest" only covers American cases, only part of the field of Common Law citation. To make it complete you need "Mews' Digest of English Case Law." (18 vols., \$110), just brought up to date by a two-volume supplement. See pp. 12, 13.

Choice Books for Cultivated Tastes.—See page 9 for our latest finds in the rare-book line. Even if you have no money to buy them, you can gloat over the titles, and recommend them for purchase to your nearest law library.

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Fill Up Your G. B. Sets.—We have transferred publication of the Green Bag to the Riverdale Press (see p. 17) to whom 1909 subscriptions should be sent.

WE WANT TO BUY FOR CASH, OR IN TRADE THE FOLLOWING BOOKS.

If you have any of them, or any other law books you would sell or exchange, send us lists, giving short title, date and condition.

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Ariz. *Laws*. Sept. 1864; Oct. 1866; Nov. 1868; Jan. 1871; 1875; 1885; 1899; 1901.
Ark. *Comp. Laws*, 1835; English's *Stats*, 1848; Gould's *Stats*, 1858; Mansfield's *Stats*, 1884. *Laws*, Nov. 1874; Jan. 1893; 1895; 1905.
Colo. *Laws*. 1883.
Conn. *Laws. Public*, 1854; 1865. *Private*, 1883, 1885, 1887.
Dak. *Hand's Code*, 1877.
Del. *Laws*. 1853; 1857.
Fla. *Bush's Stats*. 1872. *Laws*, 1848; 1850; 1872; Apr. 1872; 1875; 1883; 1891; 1903.
Ga. *Lamar's Comp.* 1821. *Laws*, March 1864; Feb. 1865.
Ida. *Laws*. Dec. 1866; 1868; 1870; 1872; Jan. 1895; 1897; 1901; 1903; 1905; 1907.
Ills. *Private Laws*, Dec. 1826; 1836; 1838; *Laws*, March, 1882.
Ky. *Littell's Statutes*, 5 vols.; *Laws*, 1875, vol. 2: 1877, vols. 2; 1881, 2 vols.; 1887, 3 vols.; 1896.
La. *Laws*. Dec. 1828; May, 1882; 1896; 1902; 1906.
Md. *Acts and Resolves*. 1846; 1852; 1853.
Mich. *Laws*. Nov. 1835; Jan. 1855.
Miss. *Laws*. Jan. 1872; Dec. 1874; Jan. 1880.
Mo. *Laws*. Jan. and Nov. 1826; 1828.
Mont. *Laws*. Jan. 1876; 1885; 1895; 1901; 1903; 1905.
Neb. *Laws*. Jan. 1872.
Nev. *Laws*. 1873.
N. J. *Laws*. Between 1847 and 1875. Send lists.
N. M. *Laws*. Jan. 1899.
Oklahoma. *Laws*. 1905.
Ohio. *Laws*. June, 1832; Local laws, 1834; 1850.
S. C. *Laws*. Dec. 1840; 1841; 1843.
Tenn. Heywood & Cobb's *Comp.* 2 v. *Laws*. *Private Laws*, 1831; *Public and Private*, 1832; *Public and Private*, 1833; *Public*, 1835; 1897.
Tex. *Laws*. June, 1842; Nov. 1842; Dec. 1843; June, 1845; Jan. 1853; 1875.
Utah. *Laws*. 1872; 1894; 1896; 1903; 1905; 1907.
Va. *Laws*. Nov. 1812; Oct. 1814; 1815; 1816; Dec. 1835.
Wis. *Laws*. Local, 1838.
Wyo. *Laws*. Jan. 1886; 1890; 1895; 1897; 1899; 1901; 1903; 1905; 1907.
American Law Review. Vols. 33, 34, 35, 36, or odd numbers of same, or any late numbers.
Columbia Law Review. Odd vols. or numbers.
Harvard Law Review. Vols. 1 to 10, or odd numbers of same.
Yale Law Journal. Vols. 1 to 6, or odd numbers of same.
American Law Register. Any late numbers or volumes.
Green Bag. Vol. I. Nos. 6, 9, 11, 12; Vol. II, No. 1; Vol. III. Nos. 1, 3; Vol. IV. No. 3; Vol. VI, No. 2; Vol. VII. No. 1; Vol. XIII. No. 5; Vol. XVII. No. 9.

NOTES.

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Judge Taft's Portrait.—We still have a few left of the photograph of Judge Wm. H. Taft in his official robes, as he sat on the bench of the United States Circuit Court in Cincinnati, from 1892 to 1900, a copy of which was given on page 7 of the January, 1909, **Leg. Bib.** The portrait, 8 x 10, is mounted on card 11 x 14, and is sent flat by mail for \$1.50.

Distinctively American Doctrine. Every thoughtful lawyer ought to read and ponder the first monograph in Prof. Thayer's Legal Essays (\$3.50) in which the learned author answers the question: "How did the American doctrine, which allows the judiciary the power to declare legislative Acts unconstitutional, and to treat them as null, come about, and what is its true scope?"

Stimson Erratum.—An Appendix, originally planned for **Stimson's Law of the Federal and State Constitutions**, was incorporated in the text before the volume went to press. Through an oversight, the reference at the bottom of the Chart which forms the frontispiece "See Appendix" was not corrected. The reference should read, "See page 106, Division of National and State Power." Please make this correction with pen and ink in your copy.

French and Belgian Law.

We have just received a consignment of "The French Law of Wills, Probate Administration, and Death Duties of the Estates of Deceased Foreigners leaving property in France", by Pierre Pellerin, French Advocate, also Barrister at Law of Lincoln's Inn;—with an outline of the French Law of Inheritance. Pamphlet, 50 cents.

Also by the same author "The French Law of Bankruptcy and Winding-up of Limited Companies." Pamphlet, 50 cents.

We also have "A Short Treatise on Belgian Law and Legal Procedure," by Gaston de Leval. Pamphlet, 50 cents.

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Roberts and Wallace's Employers' Liability. 4th ed., London, 1908. Buckram. \$9.50.

The Fatal Accidents Act, The Employers' Liability Act, and Workmen's Compensation Act have all been dealt with in separate chapters.

Wessels' History of the Roman-Dutch Law. Grahamstown, 1908. \$10.00.

The first English treatise of this subject, giving a valuable discussion of the influences affecting legal systems of Northern Europe.

Burge's Colonial Law. 2d ed. 5 vols. \$42.00.

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Talbot and Fort's Index of Cases Judiciously Noticed. 2d ed., London, 1908. Buckram. \$9.50.

Every case in the Law Reports, Law Journal Reports, Law Times Reports or Weekly Reporter from 1865 to 1907 which has been cited in any judgment, is noted.

Jenks' Digest of English Civil Law. 4 parts ready, 1905-8. \$5.00.

French Civil Code as Amended to 1906. Translated into English by Hon. E. Blackwood Wright. London, 1908. Cloth. \$6.50.

Invaluable to the student of the civil law and where the civil law is still in force.

German Civil Code. Translated into English by Chung Hui Wang. London, 1908. Cloth. \$5.50.

An excellent translation of "the most carefully considered statement of a nation's laws."

Todd's Belgian Law. London, 1905. Cloth. \$7.50.

Translation of the Code of Commerce and Code of Procedure and selections from the Civil Code, with a Vocabulary.

Barclay's Problems of International Practice and Diplomacy. London, 1907. Cloth. \$6.50.

With special reference to The Hague Conferences.

NOTES.

Foreign Wants.—We send some one of our staff abroad every year to pick up books for our customers which cannot be obtained by correspondence or advertisement. This summer Mr. McCloud, manager of our Law Library Department, is to make the trip. If you have any wants in the line of English, Irish, Scotch, or Continental books, he will be glad to search them out for you.

Norwegian Laws-in-Force. Up to this time there has been no work in Norway corresponding to the "Laws-in-Force" in other European countries. This want has just been filled by the publication of Paulsen's "Norges Love," 2 volumes, which we can import for \$12.00.

Swiss Polyglot Code. Switzerland is inhabited by three nationalities, German, French and Italian. Its laws and decisions are promulgated in all three languages. The first civil code of the country has just been published in one volume, entitled *Schweizerisches Zivilgesetzbuch; Code Civil Suisse; Codice Civile Svizzero*;—Dec. 10, 1907. It affords an interesting study in comparative jurisprudence. Cloth, \$2.50.

RUSSIAN LAW.

Russia seems to be one of the European countries where the Code is not final authority, and where judicial decisions may have the force of laws, as a practical "Stare decisis."

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As to judicial decisions Korkunov says: "The tribunals find themselves given the right to interpret the laws. . . . The judicial power must itself resolve all questions submitted to it. In fact, our judicial usage, especially that of the Court of Cassation, as a result of the numerous imperfections in the texts of the law, exhibits very often a creative character."

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Revue Internationale du Droit Maritime. 21 vols. 1886-1906. Fine half calf bindings.

Maritime Law. *Revue Internationale du Droit Maritime*. (Autran.) Vols. 1 to 20 bound, v. 21 in parts, Index, 1885-95. Paris. 1885-1906.

Commercial Law. *Archiv für Deutsches Wechselrecht und Handelsrecht*. Siebenhaar. 18 vols., New Series, 6 vols. Leipzig. 1851-1874.

Prussia: Decisions. *Entscheidungen des Königlichen Geheimen Ober-Tribunals*. Begun by Simon & Stampfli, finished by Sonnenschmidt, Clauswitz & Hahn. 83 vols. Berlin. 1837-1879. (With General Index to vols. 1-80).

Saxony: Decisions. *Archiv für Civilrechtliche Entscheidungen der Königlichen Sächsischen Justizbehörden*. Wengler & Francke. 6 vols. and New Series, 11 vols. Leipzig. 1874-1890; with Index to the N. S.

Old Codes Reprinted. *Códigos Españoles. Concordados y Anotados*. 2a Edicion. (San Martín, Editor) 11 vols., folio. Madrid. 1872-73

TO FILL A GAP IN YOUR CHANCERY REPORTS.

Bookbuyers of the days before the **Full English Reprint** will remember that the most costly law reports a large library had to get, were the Vice-Chancellor's Reports which were for some reason omitted from the old "English Chancery Reports" reprint. They were Drewry; Drewry & Smale; De Gex & Smale; Smale & Giffard; Giffard, Kay, Kay & Johnson; Johnson, Johnson & Hemming; Hemming & Miller; twenty-nine volumes in all, which cost about \$500 to import.

Most libraries and many lawyers, finally bought these expensive volumes, but there are scores of sets of the American "English Chancery Reports" reprint of 1843-1874 around the country, which are still defective in the Vice-Chancellors series.

To fill the gap in such sets, we have had the reprints of these missing volumes separately printed and bound up together as a supplement to the old "English Chancery Reports" series.

If you are interested, we will price them to you.

OLD VIRGINIA LAW.

In our January number we announced that R. T. Barton of Winchester was editing for early publication, Barradall's Reports, a manuscript of Virginia decisions preserved in the library of the Court of Appeals at Richmond.

Further research has discovered other manuscripts of about the same period (1730-1740) in the Virginia Historical Society's Library, in the Congressional Library and in the Harvard Law Library, covering not only cases reported by Barradall, but also others by Sir John Randolph.

Comparison and study of these manuscripts has impelled Mr. Barton to a systematic review of the social conditions of that day, and the development of the administration of justice in the seventeenth and eighteenth centuries. His introduction to the volume we hope to publish in October will be a very readable and valuable sociological study of Colonial Virginia. The chapters he has blocked out are entitled: **1, The Book; 2, The Land; 3, The People; 4, The Government; 5, The Church; 6, The City; 7, Education; 8, The Courts; 9, The Law and the Lawyers; 10, The Reports and the Reporters.**

When these themes are clothed with the results of the editor's sympathetic and thor-

ough research, the published volume, whether it be called "Reports of Barradall and Sir John Randolph" or "Virginia Colonial Law" will not only be an important contribution to American legal annals, and interesting to Virginians and their kin,—but it will also be a work of literary and historical value to every reader throughout the country.

A CHINESE LINGUIST.

In the column headed "Recent English Treatises Useful to American Lawyers" will be found the title of a translation of the German Civil Code, which has been praised by reviewers as a marvel of accurate statement and idiomatic English. The marvel is doubled by the knowledge that the translator is a native of China, but explained by the fact that he got his legal education in England and America. The American part is vouched for in the subjoined letter:

"Gentlemen,—

"I am in receipt of your letter calling attention to a new translation of the German Civil Code, the learned editor of which, Mr. Chung Hui Wang, is spoken of so favorably. Please to enter my order for the book.

"I take particular pleasure in sending this order, as Mr. Wang was one of my students when five years ago I was teaching at Yale Law School. Mr. Wang was a learned student, and in an examination of the subject of General Jurisprudence his papers surpassed all others in the class, so much so that it was a marvel to me at the time. Later I saw that Mr. Wang was Secretary to the Chinese Embassy at Berlin." *From Hon. Walter B. Clarkson, Jacksonville, Fla.*

A RARE TENNESSEE REPORT.

We have found among our old pamphlets (and bound up as a volume, because it seems valuable) the "Decisions of the Supreme Court of Errors and Appeals for the State of Tennessee on the Statute of Seven Yeare Possession. Nashville, Tenn., 1816. There are 44 pages containing two decisions, *Weatherhead & Douglass v. Bledsoe's Heirs, Carthage, June Term 1815*, and *Lillard and Others vs. Elliott and Others, Nashville, August Term 1815*.

The Harvard Law Library has a copy of this fragment, containing the same number of pages. Can any of our readers give any further particulars about it?

FEDERAL v. STATE POWERS.

The division of all governmental powers, judicial as well as legislative and executive, into two sovereignties, whereby a strong national government is made compatible with local courts, laws suited to the conditions and institutions of each several State, and home administration of domestic affairs,—is the most striking of American inventions. Our frontispiece shows graphically this division of powers: the whole circle representing the sphere of all possible legislation, and every possible division and qualification of power being represented in the several zones; the blue zones "A" and "B" representing powers granted, express or implied, to the Federal Government and to the States respectively; the red zones "X" and "Z" representing powers denied or withheld, expressly or by necessary implication, from the Federal Government and from the States respectively; the perpendicular lines always referring to the States and the horizontal lines always to the Federal Government; while that domain of sovereign power left uncovered in the centre by either the two blue zones of permission or the two red zones of denial, represents those cardinal rights and that part of ultimate sovereignty which the people who adopted the Constitution chose to keep in their own hands not only by necessary implication, but by the express iteration of the Tenth Amendment.

The Federal powers are political; that is the great criterion. The State powers, on the other hand, are domestic, social. They relate to the relation between a man and his fellow-men, to his control over his own property, taxation for all purposes but national defence, and to the trial of his disputes with his neighbors, of his controversies with all except the Federal Government, and of all his crimes or offenses except only those which, like treason, relate directly to his duty to the Federal Government, or are committed in the places subject to its exclusive jurisdiction.

The Federal Government is a political sovereign; but has almost none of the attributes of sovereignty for any other purpose. This broad fact is revealed to us with startling clearness when we note that it has generally neither the power of capital punishment nor, in effect, of direct taxation. It would be hard to find two more necessary attributes of sovereignty, as commonly understood in the science of government, than the power

over life and the power over property. Moreover, our national sovereign is controlled by the most fundamental of all limitations. It may not, under the Constitution—that is to say, without going back to the people, which it recognizes as the only source of power—change its form from a republican form of government, not even to a pure form of democracy. It is even possible, under the Fifth and Fourteenth Amendments, that it may not adopt a system of socialism or communism, or permit a State so to do.—*From Stimson's Law of the Federal and State Constitutions.*

PRINCIPLES OF EVIDENCE, \$3.50.

In these days of voluminous treatises, it is refreshing to find good a law book of moderate compass and price. Such is **Best** on the **Principles of the Law of Evidence** thus described by Mr. Chamberlayne, the American editor, in his preface:—

The position of Mr. Best among authorities on Evidence has always been unique. He prefers to treat the scientific principles which underlie the subject rather than to formulate the empirical rules which regulate its administration or render it effective as an art. His work draws its greatest value from the fact that the law of Evidence, properly restricted in scope, permits scientific treatment to an extent and in a degree impracticable in any branch of substantive law.

The object of the law of Evidence, is an ideal one—the ascertainment of truth. Evidence, therefore, is a tool and not a product.

Its proper field, is, simply, that portion of the doing of justice which consists in this ascertainment of truth. But this, in turn, this ascertainment of truth, is precisely the object which all science, in every branch of human knowledge, proposes to itself. Obviously, therefore, Evidence may be treated from a scientific point of view; for the processes by which the truth of a disputed proposition of fact may be ascertained are not prescribed by any rules of substantive law or any canons of administration, but are primarily based in the reality of things. In other words, the rules of Evidence are, properly, those of thought. In any consideration of Evidence, the work of Mr. Best, presenting most that is still valuable in the studies of Jeremy Bentham, is now and will long continue to be illuminating and helpful.

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LIBERIAN REPORTS.

The small edition of the first volume of the Reports of the Supreme Court of Liberia (\$15.00) is nearly exhausted. The United States Commission to examine into conditions in Liberia will focus attention to that republic for a year to come, and this volume throws an interesting light on the situation.

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The Lawyer as a Citizen.

The lawyer, though watchful to obey the laws of the land which it is his peculiar duty to know, deems not of himself as having then fulfilled his duties, when he has outwardly conformed to all that they command, and abstained from all that they forbid, so that he may lie down at night secure from the rods and axes of the ministers of justice. Love, not fear, is the spring of his obedience; and hence he refuses no office, however burdensome, whereby he may serve the commonwealth, nor shrinks from the discharge of any duty which his station imposes no matter how much the performance of it may expose him to the odium of those whom it is his interest to please. Some he observes who, careless about the welfare of the commonwealth, and anxious only for their own advancement, under color that, in a free state, men, to serve their country, should act with a party, attach themselves to a confederacy of politicians, whom they slavishly follow, in hopes at some future time to receive from them or with them an ample reward for their prostituted services. Now the lawyer reprobates not alone the practices, but the theory of such men. He holds it as a maxim of political philosophy, that principles should associate parties, and not parties control principles—being well assured that the conduct of others, how high soever their station or intellect, can never sanction a departure from what in each case is right, and deeming parties to be no further good or useful than as they are formed by the union of like minds earnestly striving after high and holy ends. Hence he in no case gives a blind assent to the acts of any set; but freely weighs and canvasses all measures of which it is his duty to judge, and if in any thing he disapproves, frankly speaks his mind; considering that the liberty of speech, which the constitution gives, not only imparts a privilege but imposes a duty. And while the lawyer values highly this freedom of speech, he is careful not to abuse it for impious ends. If abuses exist, he chooses rather that remedy which the constitution approves, and by petition sets forth the evil, and humbly prays that it be remedied; which, if those in power refuse, he cheerfully bears up under the burden, regarding what may not be removed by lawful means as a judgment sent in the wisdom of God. *From "The Lawyer, his Character and Rule of Holy Life."* By Edward O'Brien.

"A LITTLE NONSENSE, NOW AND THEN, IS RELISHED BY THE WISEST MEN."

LEGAL SUBTLETY.

Extract from "Selections from the *Court Reports*, originally published in the *Boston Morning Post*, from 1834 to 1837." Boston. 1837.

The trickery of lawyers has been the subject of reproach and ridicule from the days of ancient Rome down to our own enlightened times. Laws that hang other men, they hop over, dodge under, or whip around, as if they are "anointed with swallow's ile." In England, a legal dabster once extricated his client contending that, inasmuch as the thief was charged with stealing "Fowls," it was incumbent to show that the fowls were *alive*,—whereas the articles stolen were *dead*, and therefore were not *fowls*. By this *foul* distinction, the thief was declared to be no thief, and was acquitted.

Last week, a well-dressed man, named *Barnes*, was observed about a poultry wagon. As he had "a fair round belly, with good fat capon lined," he was at first supposed to be a connoisseur in poultry; but he was slow in deciding on his purchase and was closely watched, till he reached out a prime goose, with which he marched off. He was charged with "stealing one dead goose, valued at one dollar." But the English decision above quoted did not avail him—a "dead goose," said the complaint—and "dead goose" swore the witnesses; and "one month to the House of Correction," declared the court. Barnes had lost his case, but had he lost *himself*?

While waiting for the triumphal car, in which the prisoners are conveyed, he was put in the watch-house; but before the arrival of the car, he made a successful "Motion in arrest of the execution of sentence"—in other words, he was a "*gone goose*"—in legal phrase,—*non est inventus*—or, as per constable's translation,—*non-comes-at-i-bus*. The commonwealth lost its sentence against Barnes by what is technically termed a "default"—when he "moved" to escape, no one appeared to show cause why he should not be permitted to do so, and so he was allowed to depart *sine die*—to go without day—but without goose, also.

LARGENERY FROM THE HEN ROOST.

Extract from "Reports of Decisions in *Justices Courts*, of the *State of Georgia*, from the year 1820 to 1851." By Joseph Gault, Esq. Marietta, Ga. 1851."

This was a case tried before a Dutch Justice of the Peace, in the Cherokee country. "A" went before the Dutch Justice and made oath that he believed that "B" did steal his chickens last night. The Dutch Judge issued

his warrant and commanded the constable to arrest "B," and to summons twelve men as jurors, and bring them all before him and no other Chustice, in order to try that dampt hen tief. The Officer arrested "B," and summoned the twelve jurors. The warrant being returned and the trial brought up, the Justice cried out, "Stant up, *you* dampt hen tief!" The prisoner stood up, the justice read the warrant, and then cried aloud, "Ish you guilty or not guilty?" "Not guilty, sir."

The prosecutor stated that "last night he heard the geese and ducks chattering and making a fuss." The old lady, wife of prosecutor, said she "heard the old Rooster squall in the night;" and their four children swore the same facts as their father and mother had. "Tish ish dampt strong proof," exclaimed the Justice.

The evidence closed on both sides. The Dutchman gave the jury a lengthy charge, and observed: "What a detistable crime it was to rob a hen roost!" And further remarked, that, from the evidence, they should find him guilty. "Go, chentlemen, and make up your chudgment." The jury returned a verdict of "Not Guilty." The Dutchman looked over the verdict, and said: "Stant up, you tampt hen tief, and hear te sentensh of tish court. Te chury hast found you not guilty; tarefore you ish discharged. But, in te 'pinion of dish court, you ish dampt guilty!"

POLICE.—AUGUST 6.

Extract from "Skillman's *New York Police Reports*." Illustrated with engravings. Written in 1828-29. New York, 1830.

Half past four o'clock in the morning—wind east, and somewhat cloudy.

Justice Hopson, Present.

You always end with a jade's trick; I know you of old."

Miss Europa Africana Williams, a kind of Amazon, marched up boldly in front of the Magistrate. This heroine is doubtless the offspring of some high-born European and a princess of Guinea—her complexion is *golden*. She had declared war against one of the descendants of Pepin. *Europa Africana* was too much for the Frenchman; he therefore sought succour, and obtained it, in the basement story of the City Hall.

"Take her away, for she lived too long
To fill the world with vicious qualities."

Four girls, neither beautiful nor otherwise, exposed themselves in such a manner as rendered them amenable to the laws, and are now in a situation by no means to be coveted.

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But if it cannot, then the equitable plea is no bar to the defendant coming to a court of equity, subject, however, to the costs of the plea being controlled by the court of equity. *Ib.*

A court of equity will restrain an action for damages where the defence relied upon is an alleged agreement between the parties for the performance of certain acts to which a court of law cannot give effect. *Ib.*

Equitable Plea not Pleaded.]—The 17 & 18 Vict. c. 125, s. 83, giving a right to plead an equitable defence, is only permissive, and not compulsory; and a defendant who has not exercised his option of pleading an equitable plea, may come for an injunction to restrain the action, as he might have done before that act. *Gompertz v. Pooley*, 4 Drew. 448; 28 L. J., Ch. 484; 5 Jur. (N.S.) 261; 7 W. R. 275. *S. P. Kinsford v. Swinford*, 28 L. J., Ch. 413; 5 Jur. (N.S.) 261; 7 W. R. 215.

Proceedings which would interfere with or determine Pending Suit.]—In a suit by three shareholders against the directors to restrain proceedings for recovering the amount of certain calls, an injunction had been granted upon terms of plaintiffs paying the amount into court. The directors' solicitor, a shareholder, obtained judgment by default against the company for his bill of costs, and commenced proceedings against two of the plaintiffs for the amount due:—Held (following *Taylor v. Hughes*, 2 Jo. & Lat. 24) that, the defendant (the solicitor) not having denied that the proceedings had been taken for the purpose of harassing and impeding the plaintiffs in their suit, the plaintiffs were entitled to an injunction to restrain proceedings against them on the judgment, which proceedings would greatly interfere with, if not wholly determine, the pending suit. *Horn v. Kilkenny, &c. Ry.*, 1 Kay & J. 399; 24 L. J., Ch. 241; 3 W. R. 226.

Action against Executors.]—If a cause for the administration of assets has been heard for further directions, and the executors have paid their balances into court, an injunction will be granted to restrain an action against the executors for breach of a covenant in a lease granted to their testator, and the master will be directed to ascertain the damages. *Sutton v. Mashiter*, 2 Sim. 513.

Action at Law pending Suit for same Matter.] A court of equity in which a suit was pending would have stopped an action for trespass *vi et armis*. *York Corporation v. Pilkington*, 2 Atk. 302; 9 Mod. 273.

Injunction granted on Terms.]—See *Irving v. Harrison*, 3 L. J. (O.S.) Ch. 48.

Criminal Proceedings.]—Whilst suits in equity are pending, plaintiffs indict defendant's agent at the sessions where they themselves are judges, for a breach of the peace. Order made to restrain plaintiffs from proceeding at the sessions till the hearing of the cause and further order. *York Corporation v. Pilkington*, 2 Atk. 302; 9 Mod. 273.

There is no restraining power in courts of equity over criminal prosecutions. *Ib.*

Where bill is brought to grant possession, if

after that plaintiff prefers indictment for forcible entry, this court will stop proceedings upon such indictment. *Ib.*

No general jurisdiction in equity to enjoin or regulate proceedings upon indictment, but circumstances may give it; as where prosecuted by relators in an information as plaintiffs, they are subject to control by order personally affecting them; but not the defendants. *Att.-Gen. v. Cleaver*, 18 Ves. 211.

Although there may be cases in which the court of chancery will interfere to restrain criminal proceedings taken by a plaintiff in equity against the defendant to the suit in respect of the matters to which the suit relates, yet the court will not so interfere where the remedies in the proceedings in the criminal court are for a purely criminal charge. *Sauill v. Browne*, 44 L. J., Ch. 1; L. R. 10 Ch. 64; 31 L. T. 493; 23 W. R. 50; 13 Cox C. C. 30.

Unless the cases raised and the objects sought are identical, the court will not prevent a plaintiff in the court of chancery from proceeding in a criminal court against the defendants to the suit in chancery. *Ib.*

Held, that a remedy in the police court, which was the personal punishment of the defendants, was so distinct from a remedy in chancery, which was the recovery of property, that the court of chancery would not restrain the criminal proceedings, and that the discretion to stay such proceedings rested with the magistrates. *Ib.*

A court of equity has no jurisdiction to restrain criminal proceedings for the recovery of a penalty imposed by an act of parliament for a breach of its enactments. *Kerr v. Preston Corporation*, 46 L. J., Ch. 409; 6 Ch. D. 463; 25 W. R. 264.

2. RESTRAINING CRIMINAL AND QUASI-CRIMINAL ACTS.

Though the court of chancery has no jurisdiction to prevent the commission of acts which are merely criminal or illegal, yet its function is to protect property, and therefore it will restrain acts which are of a criminal nature, if they are also of such a nature as to injuriously affect rights of property. *Springhead Spinning Co. v. Riley*, 37 L. J., Ch. 889; L. R. 6 Eq. 551; 19 L. T. 64; 16 W. R. 1138.

Certain members of a trade union, employed at a spinning company's mill, took offence at a reduction of their wages and left their masters' service. The association then posted in the district, and advertised in the local papers, a placard or notice, which was in substance a warning to all workmen not to seek to renew their work at the mill until the dispute was settled. The company filed a bill to restrain the printing and publishing of the notices, charging that they were part of a scheme to prevent persons, by threats and intimidation, from hiring themselves to the plaintiffs, and that persons had, in fact, been so intimidated; that the plaintiffs' business was materially injured thereby, the value of their goodwill depreciated, and the corpus of their property irreparably damaged:—Held, that the acts of intimidation complained of, though punishable as a statutable offence, were yet within the jurisdiction of equity, as tending to the destruction of property. *Ib.*

Distress by a Stranger.]—Defendant, having assigned leasehold estate to plaintiff, afterwards brought an action of ejectment and was non

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in question is created to the lessors of the plaintiff, for securing an annuity of £500 *per ann.*, and all arrears thereof, payable to Sir *Ralph Cole* during his life, and after his decease for securing an annuity of £200 *per annum*, and all arrears thereof, payable to the Lady *Cole* for her life, granted *prout* the deed, in such manner, and with such remedies *prout* the deed. Sir *Ralph Cole* died, and all the arrears of rent due in his life-time were paid, and the Lady *Cole* survived him. Afterwards the Lady *Cole* died, *viz.* on *Michaelmas-day* 1704, at nine of the clock at night, being the first day of payment after Sir *Ralph Cole*'s death, and the plaintiff is her administrator. The sole question is, whether the term be void without payment of this quarter's rent, or whether this quarter's rent remains due to Lady *Cole*, so as to intitle her administrator thereto within the construction of this deed?

Rich. Wyn. pro Quer.
Tho. Parker, pro Deft.'

I am of opinion that this money was due when by law it ought to be paid; therefore since the Lady *Cole* lived beyond sun-set, which was the time when the money was demandable, and to be paid by the tenant upon pain of forfeiting his lease, I think the money was due to her, and ought to be paid to her, and that her administrator is intitled to the same.

Jan. 18, 1706.

Robt. Tracy.

Note: J. Tracy told me that he advised with Lord C. J. Holt at his chambers, and that, upon view of the several authorities relating to this point, his Lordship was of the same opinion.

[181] DE TERM. S. HILLARI, 1711. B. R.

Case 44.—MITCHEL *versus* REYNOLDS. [1711.]

[Followed, *Master of Gunmakers, &c. v. Fell*, 1742, Willes, 388; *Davis v. Mason*, 1793, 5 T.R. 120. Referred to, *Gale v. Reed*, 1806, 8 East, 85. Followed, *Young v. Timmins*, 1831, 1 Tyr. 241; *Horner v. Graves*, 1831, 7 Bing. 741. Referred to, *Keppell v. Bailey*, 1834, 2 My. & K. 529; *Mallan v. May*, 1843, 11 M. & W. 665. Followed, *Wilkinson v. Wilkinson*, 1871, L. R. 12 Eq. 604; 40 L. J. Ch. 242; 24 L. T. 314; 19 W. R. 558. Referred to, *Gravely v. Barnard*, 1874, L. R. 18 Eq. 523; *Collins v. Locke*, 1879, 4 App. Cas. 686; *Rousillon v. Rousillon*, 1880, 14 Ch. D. 364. Examined, *Davies v. Davies*, 1887, 36 Ch. D. 386, 390, 397. Referred to, *Mogul S.S. Co. v. M'Gregor, Gow & Co.*, 1889, 23 Q. B. D. 627; *Clegg v. Hands*, 1890, 44 Ch. D. 509, *n.* Followed, *Nordenfelt v. Maxim-Nordenfelt Co.*, [1894] A. C. 535. See also Smith's L. C. 10th ed. vol. 1, p. 391.]

10 Mod. 27, 85, 130; Fort. 296.

Resolution of the court of B. R.

A bond or promise to restrain oneself from trading in a particular place, if made upon a reasonable consideration, is good. (So *Davis v. Mason*, 5 T. R. 118.) *Secus* if it be on no reasonable consideration, or to restrain a man from trading at all.

Debt upon a bond. The defendant prayed *Oyer* of the condition, which recited, that whereas the defendant had assigned to the plaintiff a lease of a messuage and bakehouse in *Liquorpond Street*, in the parish of *St. Andrew's Holborn*, for the term of five years: now if the defendant should not exercise the trade of a baker within that parish during the said term, or, in case he did, should within three days after proof thereof made, pay to the plaintiff the sum of fifty pounds, then the said obligation to be void. *Quibus lectis et auditis*, he pleaded, that he was a baker by trade, that he had served an apprenticeship to it, *ratione cuius* the said bond was void in law, *per quod* he did trade, *prout ei bene licuit*. Whereupon the plaintiff demurred in law.

And now, after this matter had been several times argued at the bar, *Parker, C. J.*, delivered the resolution of the court.

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But see **Beal's Cardinal Rules of Legal Interpretation**, Second Edition, p. 264.

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The **Virginia Colonial Decisions** will be published in two volumes. Vol. 1 will contain the Introduction, by R. T. Barton, Esq., of Winchester, Va., and the Reports of Sir John Randolph. Vol. 2 will contain Barradall's Reports.

These reports, never before published (except a few cases which were excerpted by Jefferson), are taken from manuscripts preserved in the library of the Virginia Court of Appeals, and in the Virginia Historical Society's library. They are extremely interesting and valuable as illustrating the legal and social conditions of Virginia (as well as the other American Colonies) at the time the decisions were rendered, from 1730 to 1740, the early years of the revolutionary generation.

Mr. Barton, approaching his editorial work with the legal acumen of a lawyer and author and the enthusiasm of an antiquarian, has prepared an Introduction which not only describes reporters, courts, and manuscripts,—but also sketches in a very readable manner, the social conditions, from the earliest settlements up to the Revolution, which constitute the rationale, the setting, and the background of the reports. His chapters are entitled:—

1. **The Book.**
2. **The Land.**
3. **The People.**
4. **The Government.**
5. **The Church.**
6. **The City.**
7. **Education.**
8. **The Courts.**
9. **The Law and the Lawyers.**
10. **The Reports and the Reporters**

This framework will show how valuable the work will be, not only to Virginia lawyers but also to lawyers everywhere who are interested in the development of American law, and to all libraries which have a department of American Colonial history.

EMINENT DOMAIN.

Mr. Nichols has limited his work to the fundamental principles which underlie the power of eminent domain. It is a treatise on that branch of constitutional law which relates to the taking of private property for public use.

The procedure in eminent domain depends entirely on local statutes, so that the decisions of one state are of little value in considering questions of practice arising in a different state, but decisions on the broad constitutional limitations which restrict the power, carry as much weight from one end of the country to the other commensurate with the standing of the court pronouncing them, and the soundness of the reasoning.

The book was compiled during eleven years' service in the Law Department of the city of Boston, when many of the questions discussed arose to be considered in actual practice, and much of the material was gathered by the author for his own use in meeting them.

The citations on points directly within the scope of the work are exhaustive, but on matters only incidental reference is made to one or two leading cases or a text-book of recognized standing. To make the work as serviceable as possible, citations have been made to the unofficial reports and selected cases as well as to the officials reports.

CEYLON.

A New Series of Reports.

We have just received a limited number of sets of the **Appeal Court Reports**, edited by A. L. de Witt and G. E. G. Weeresinghe. These are issued in fortnightly parts and make two volumes a year. The publication began early in 1907. If the publication has been kept up, of which fact we are not sure, there are three sets of law reports now current in Ceylon, the New Law Reports and Balasingham's Reports being the other two.

The bulk of the cases reported were decided in 1906 and 1907, though in volume one are a few cases of 1903 and 1905. In volume three are the 1908 cases.

We presume that the supply is quite limited, and will shortly go out of print. If any librarian wishes to add this set to their collection of Ceylon material, we will be glad to quote prices on request.

RECENT ENGLISH TREATISES

USEFUL TO AMERICAN LAWYERS.

Arnould on Marine Insurance. 2 vols. \$15.00

The eighth, edition of this standard **Barclay's Problems of International Practice and Diplomacy.** London, 1907. Cloth. \$6.50.

Especially The Hague Conferences.

Beals' Cardinal Rules of Legal Interpretation. 2d ed., London, 1908. Cloth. \$5.25.

Not only of Deeds, Statutes and Contracts but of all instruments.

Burge's Colonial Law. 2d ed. 5 vols. \$42.00.

Vol. I, 1907, \$7.00; Vol. II, 1908, \$8.75. (Vols. III-V in preparation).

Jenks' Digest of English Civil Law. 4 parts ready, 1905-8. \$5.00.

Roberts and Wallace's Employers' Liability 4th ed., London, 1908. Buckram. \$9.50.

The Fatal Accidents Act, the Employers' Liability Act, and Workmen's Compensation Act have all been dealt with.

Stephen's Commentaries on the Laws of England. 15th ed., 1908. 4 vols. Cloth. \$22.00.

Since 1841 this has been recognized as the standard commentary on the English law.

Mews' Digest of English Case Law.

The new ten year supplement, 1898-1907, now ready. 2 vols. \$15.00.

Talbot and Fort's Index of Cases Judicially Noticed. 2d ed., London, 1908. Buckram \$9.50.

Every case in the Law Reports, Law Journal Reports, Law Times Reports or Weekly Reporter from 1865 to 1907 is noted.

Wood and Ritchie's Digest of Cases Overruled, Approved, or Modified. 1907. 3 vol. \$25.00.

A necessity for successful practice. More than 30,000 cases are completely dealt with.

French Civil Code as Amended to 1906. Translated into English by Hon. E. Blackwood Wright. London, 1908. Cloth. \$6.50.

Invaluable to the student of the civil law and where the civil law is still in force.

German Civil Code. Translated into English by Chung Hui Wang. London, 1908. Cloth. \$5.50.

An excellent translation of "the most carefully considered statement of a nation's laws."

Todd's Belgian Law. London, 1905. Cloth. \$7.50.

Translation of the Code of Commerce and Code of Procedure and selections from the Civil Code, with a Vocabulary.

Wessel's History of the Roman-Dutch Law. Grahamstown, 1908. \$10.00.

The first English treatise of this subject, giving a valuable discussion of the influences affecting legal systems of Northern Europe.

A RARE TENNESSEE REPORT.

In the April, 1909, *Leg. Bib.*, we asked our readers for information as to "Decisions of the Supreme Court of Errors and Appeals for the State of Tennessee on the Statute of Seven Years' Possession." We have received this interesting letter, which we reprint in full as a bibliographical item.

The Editor of Legal Bibliography:—

You stated in your April number (p. 4) that you had found two Tennessee cases in a pamphlet bound up as a volume and that the Harvard Law Library has a copy. You ask for some particulars; here they are:—

Weatherford and Douglass *v.* Bledsoe's Heirs is reported in 2 Overton (Tenn.), 352. Lillard and others *v.* Elliott and others is unreported, but is cited in Harris and Holmes *v.* Lessee of Bledsoe's Heirs (1821) Peck, p. 249, where that case is referred to as "printed in pamphlet." The interesting statement is made that there were only two Judges on the bench, Overton and Cooke, who differed in opinion. The statute provided that in such cases the lower court should be affirmed. The case is frequently cited, with the statement that it is unreported but published in pamphlet, probably on account of its importance. It is a fact that there is not a reported case of Judge Andrew Jackson, so that it would appear not unusual for an important case to be unreported.

Both of these cases involve early Tennessee land law and were important in those days. The statute has now settled the questions. In both, the Act of 1797 was under discussion. They were decided in 1815 and 1821. In 1839 Thomas Washington, arguing the case of Scott *et al.* *v.* Reid *et al.*, before the U. S. Supreme Court said that the construction of the Act of 1797 brought about a controversy in Tennessee from the excitement of which, at one time, few persons of any consideration in society were entirely exempt, continuing with increasing intensity and bitterness for twenty-five years, agitating our legislative councils and judicial tribunals to an extent that was unexampled and alarming. The conflict commenced with Hampton's Lessee *v.* McGinnis, 1 Tenn. 286, and terminated with Gray *v.* Darby's Lessee, M. & Y. 396, decided 1825. The cases are numerous. The Act of 1797 provided that the possessor before he can avail himself of the limitation act, should show some color of paper title. Up to 1815 the rule of mere color of title prevailed; afterwards the doctrine of connected chain was the law, which was recognized by the Supreme Court of the United States in 1 Wheat. 276 and 2 Peters 240.

The Supreme Court of the state then decided that a deed with seven year's possession, though void, was a bar. This rule was affirmed in 6 Peters 291, by the highest Court in the land. One who cares to pursue the subject further can find instruction in 2 Overton (Tenn.) pp. 386 and 7. See foot note by Judge Wm. F. Cooper, an eminent jurist of Tennessee, who recently died.

The legislature of 1819 in order to make a rule for limiting actions for land, which would be plain and intelligible, and do away with "color of title," "equitable connections," "apparent equities," etc., passed an act, which with a slight subsequent amendment, is the present law of Tennessee. It relieved an irritating situation.

The statute now provides that seven years' adverse possession under registered conveyance, devise, grant or other assurance of title purporting to convey an estate in fee, is a bar to all suits.

Yours truly,

JOHN C. BROWN,

Nashville, Tenn.

SESSION LAWS.

LAWS OF MICHIGAN LEGISLATIVE BOARD, 1821-1823.

A Desirable Reprint.

The territory of Michigan was set off in 1805. Until 1823 it was governed by a Legislative Board consisting of a Governor and three judges.

Before the organization of **Printed Laws.** the Legislative Council, there was published the following volumes of laws: Woodard Code, 1806; Cass Code, 1816; Laws, 1820; Laws of Legislative Board, 1824.

The laws adopted by the Legislative Board since July 3, 1821, cover the period from that date until the organization of the Council, or during the years 1821 to 1823. They were published by authority, in 1824, at Detroit, in a pamphlet of forty pages.

This pamphlet is exceedingly **Reprint.** scarce and is found in but few libraries. It is more in the nature of a volume of session laws, than anything else, and might well be called the first published territorial session laws of Michigan. It should be in every collection of session laws. As it has been impossible for us to procure copies, we have succeeded in borrowing a copy, from which we are having a facsimile reprint made. It will be ready for distribution early next month. Only fifty copies will be printed, and then the plates will be destroyed. It will be printed on fine durable paper, manufactured from pure rags. It will be issued in pamphlet form. The price will be **\$7.50** per copy. As we shall push off the sale of this limited edition without delay, it would be wise to file orders as early as possible.

OREGON.

Adjourned 1st Session Territorial Legislature.

The catalogues mention a May, 1850, session, usually as being bound with the first territorial session of July, 1849. Hon. H. R. Kincaid, in his "Political and Official History and Register of Oregon," states that in the archives and other public documents found in the department of state there is no record of a session in 1850 in continuation of the first regular session of the territorial legislature. Bowker makes no mention of a special session at this time. On the other hand, Hon. O. C.

Pratt, in his opinion on the location of the Oregon capital, refers to the session, and Bancroft in his history of Oregon says the members convened at Oregon City and were in session about two weeks and passed a number of acts.

Supposed State Session, 1858. Both branches of the legislature met at Salem on July 5th, 1858, remaining in session four days, but there being grave doubt as to whether Oregon had yet been admitted, owing to the impossibility of obtaining any direct and speedy communication with the national capital, it was decided to adjourn until September of the same year. On Sept. 13th, a part of the members of both branches of the legislature assembled at the capital, and it appearing that the state had not yet been admitted again adjourned to their respective homes. The tenth territorial legislature convened in December, 1858, and continued in session until Jan. 22, 1859.

Provisional Government. A committee was chosen at a "full meeting of the inhabitants of the Willamette valley," held at the American Mission House, Feb. 18, 1841, to frame a constitution and code of laws for the area of country known as "Oregon." A second committee was chosen at a public mass meeting held at Champooich, May 2, 1843. This committee, on July 5, 1843, submitted a number of reports which were adopted as the laws of Oregon. A third legislative committee was chosen, and was in session from June 18 to June 27, 1844, and reconvened on December 16, and continued in session until December 24, 1844. A fourth legislative committee was in session from June 24 to July 5, 1845.

Four sessions of the provisional legislative assembly were held from 1845 to 1849.

None of the laws passed appeared in print, apparently, until the compilation of the general and local laws, from 1843 to 1849, published in 1853.

Constitutional Monographs

Thayer's Legal Essays (Buckram, \$3.50), published by The Boston Book Co.

ENGLISH TEXT BOOKS.

Published Since April 1, 1909.

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Even. Law of Employer's Liability and Workmen's Compensation. 4th ed.	21.0
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Mackenzie and Lushington. Registration Manual. 3d ed.	22.6
Phipson. Law of Evidence. 4th ed.	15.0
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Roscoe. Measure of Damages in Actions of Maritime Collisions.	10.6
Smith. Principles of Equity. 4th ed.	4.0
Spencer. Agricultural Holdings Act, 1908. 4th ed.	6.0
Stephenson. Study of the Law of Mortgages.	7.6
Stone. Justices' Manual. 41st ed.	25.0
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The Higher Politics

A reviewer says that any reader who masters and memorizes the diagram of **State and Federal Powers** and their interrelation, which forms the frontispiece to the volume, becomes from that mastery alone a finished constitutional lawyer.

The work contains: I. The origin and growth of American constitutions. II. Constitutional principles as expressed in successive English and American constitutional documents. III. Digest of all the State constitutions as compared with the Federal Constitution.

Stimson's Law of American Federal and State Constitutions (Buckram, \$3.50), recently published by The Boston Book Co.

AMERICAN REPORTS, ETC.

Reports Published Since April, 1909.

General Series.

American Bankruptcy Reports. Vol. 20.
Digest. Vol. 2.
American State Reports. Vol. 125.
Green's Digest. Vol. 4.
Amer. and Eng. Annotated Cases. Vol. 12.
Amer. and Eng. Railroad Cases. N. S. Vol. 53.
American Probate Reports Annotated. Vol. 13.
Cyc. Vol. 31.
Lawyers' Reports, Annotated. N. S. Bk. 18.

United States.

Supreme Court Reports. Vol. 212.
Circuit Court of Appeals Reports. Vol. 89.
Federal Reporter. Vol. 166.
Interstate Commerce Reports. Vol. 14.
Patent Office Gazette. Vol. 139.

State and Territorial Reports, etc.

Ala. *Reports.* Vol. 153 (Reprint. Vol. 11).
Ariz. *Reports.* Vol. 10.
Session Laws. 1909
Ark. *Reports.* Vol. 87.
Session Laws. 1909.
Calif. App. Court. *Reports.* Vol. 8.
Colo. *Reports.* Vol. 43.
Session Laws. 1909.
Fla. *Reports.* Vol. 52.
Ida. *Reports.* Vol. 15.
Session Laws. 1909.
Ill. *Reports.* Supreme Court. Vol. 238.
Appellate Court. Vol. 142.
Ind. Session Laws. 1909
Ind. Ter. *Reports.* Vol. 7.
Ia. *Reports.* Vol. 138.
Session Laws. Extra. 1908.
Ky. *Reports.* Vol. 127.
La. *Reports.* Vol. 122.
Md. *Reports.* Vol. 108.
Mass. *Reports.* Vol. 200.
Mich. *Reports.* Vol. 154.
Minn. *Reports.* Vol. 106.
Session Laws. 1909.
Mo. *Reports.* Vol. 215.
Appellate Court. Vol. 133.
Mont. Session Laws. 1909.
Neb. *Reports.* Vol. 80.
N. J. Law Reports. Vol. 75.
N. M. *Reports.* Vol. 14.
N. Y. *Reports.* Supreme Court. Appellate. Vol. 129.
Court of Appeals. Vol. 194.
Current Court Decisions. Vol. 1.
Miscellaneous Reports. Vol. 61.
N. C. *Reports.* Vol. 148.
Ohio. Circuit Court Reports. Vol. 30. (Circuit
Decisions. Vol. 20.)
Circuit Court Reports. N. S. Vol. 11.
State Reports. Vol. 79.
Federal Decisions. Vol. 18.
Session Laws. Extra. 1909.
Oklahoma. *Reports.* Vol. 19.
Ore. *Reports.* Vol. 50.
Pa. *Reports.* Supreme Court. Vol. 222.
Superior Court. Vol. 37.
Maxwell's Reports. Northampton Co. Vol. 11
S. C. *Reports.* Vol. 81.
S. D. Session Laws. 1909.
Tenn. *Reports.* Vol. 120.
Texas. Civil Appeals. Vol. 45.
Utah. *Reports.* Vol. 34.
Wash. *Reports.* Vol. 51.
Wis. *Reports.* Vol. 136.

CANADIAN LAW BOOKS.

Dominion.

Canadian Railway Cases. Vol. 8.
Mignault's Droit Civil Canadien. Vol. 8.

Ontario.

Law Reports. Vol. 17.

Quebec.

Reports. Official King's Bench. Vol. 18.
Superior Court. Vol. 36.
Revue Légale. Vol. 14.
Revue de Jurisprudence. Vol. 14.

Saskatchewan.

Law Reports. Vol. 1.

BRITISH EMPIRE.

England.

Reports.

Bankruptcy Reports (Manson). Vol. 15.
Criminal Appeal Reports. Vol. 1.
Law Times. Vol. 126.
Law Times Reports. Vol. 99.
Registration Cases (Smith). Vol. 2 Pt. 3
Revised Reports. Vol. 104.
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White. Personal Injuries on Railroads. 2 vols.	13.00

CHOICE AND RARE LAW BOOKS.

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It will pay every librarian and every lover of old, quaint, scholarly or amusing law literature, to glance at every title in these lists, as we publish them in the quarterly numbers of **Leg. Bib.**

There may be something here which will fill a gap in your library, or fall in with your present trend of thought, or amuse an idle hour.

Act for prohibiting the Importation of (English) books, reprinted abroad, etc. Folio, pamphlet. London, 1739	\$1.00	Marvin (J. G.). Sir Jas. Mackintosh's Discourse on the Study of the Law of Nature and Nations: Sketch of his Life; and Bibliography of the subject. Boston, 1843.....	2.50
Antiquity , etc., of the High Court of Parliament: the Several Opinions of sundry learned antiquaries. 32mo. London, 1658	3.50	Man , Isle of: Lex Scripta: Ancient Ordinances and Statute Laws. New edition. Douglas, 1819.....	3.50
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Bacon's New Abridgment of the Law. 7th (last English) ed., by Gwillim and Dodd. 8 vols. London, 1832.....	12.00	[Pennsylvania Imprint]. Approved Pennsylvania Forms. Compiled by a Gentleman of the Bar. 18mo. Erie, Pa., 1829	1.50
Baron and Feme : a Treatise of the Common Law concerning Husbands and Wives (Anonymous). London, 1700.....	2.00	Pleas of the Crown; or a Brief but Full Account of Whatsoever Can be found Relating to that Subject. 16mo. London, 1678.....	2.00
Boutros (F.). Principles of the Law of Nations. Serampore (India), 1845.....	2.50	Pratt (J. T.). Abstract of Acts for the Establishment of Courts of Requests. London, 1824.....	2.00
Dickinson (R.). Compilation of the Laws of Massachusetts (relating to towns?) with Forms. Boston, 1811.....	1.50	Recueil des Lois Composant le Code Civil décrétées en l'an XI—XII. 9 vols in 6. Paris, 1803—4. [Preliminary to the Code Napoleon].....	10.00
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Fulbeck (Wm.). Direction or Preparative to the Study of the Law. 2d ed., by T. H. Stirling. London, 1829.....	1.50	Ward (Matt F.). Full Report of the Trial of, for Murder, at Elizabethtown, Kentucky. N. Y., 1854..... (Bound up with Stone's Report, 1850, of the trial of Prof. Webster for the murder of Dr. Parkman).	5.00
Hammond (Anthony). A Letter to the Members of the Different Circuits. (Prospectus of his "Criminal Code")......	1.00	Ward (Robt.). Foundation and History of the Law of Nations in Europe. 2 vols. London, 1795.....	5.00
[Hawkins —]. A Summary of the Crown Law 2 vols. London, 1728.....	2.00	Whitelockes . Notes upon the King's Writt (. . .) being Disquisitions on the Government of England. Published by Charles Morton. 2 vols. 4to. London, 1766.....	10.00
[Impeachment]. Proceedings before the Judicial Committee of the Privy Council (as to) the Removal of Chief Justice Beaumont from the Bench of British Guiana. Georgetown (Demarara), 1869	5.00	Wirt (William). Memoirs of Life of, by John P. Kennedy. 2 vols. Phila. 1849	5.00
Jay (Chief Justice). Life and Times of, by Wm. Whitelock. New York, 1887.....	1.00	Woles : Jurisdiction and Practice of the Court of Great Sessions; Chester Circuit. London, 1795	2.00
Law of Evidence, by a late learned Judge. "In this edition, the Errors in the Irish Edition have been corrected." London, 1756. [First English edition of Gilbert on Evidence?]	2.00	Wynne (Edw.). Eunomus: or Dialogues concerning the Law and Constitution of England. 5th ed., by W. M. Bythewood. 2 vols. 16mo. London, 1822.....	3.00
Lindsay (Wm.). The Christian Law as to Relations which bar Marriage. 16mo. Glasgow, etc., 1855	1.50		
Lushington (Godfrey). Manual of Naval Prize Law. London, 1866	2.00		
Manlove (Edw.). The Rhymed Chronicle, concerning Liberties and Customs of Lead Mines. 2d ed., by Thos. Tapping. London, 1851.....	1.50		

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Alabama, 1896.
Mississippi, 1887, 1888.
New Mexico, 1890.
Indian Ter., 1900, 1901, 1902.
South Carolina, 1886 to 1906.
Tennessee, 1902, 1903.
Texas, 1903.
West Virginia, 1894, 1900.

If you have any of them, or any odd session laws or legal periodicals, that you would sell or exchange, send us lists, giving short title, date and condition.

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LEGAL PERIODICALS.

A comparison of our present stock with the lists which have been published in previous issues of Leg. Bib. will show how this material is being absorbed. Each quarter the list grows shorter. Notwithstanding the fact that it is becoming more and more difficult to procure complete sets, the price has not materially advanced as yet, though an advance must necessarily be made in the near future. Of the fifty-two sets now in stock we have duplicates of only twelve sets. During the past year the few sets that came on the market were so imperfect that we had considerable difficulty in perfecting them.

Librarians lacking any of the sets which we list here should write us at once for prices.

American Periodicals.

Albany Law Journal, 70 vols. 1870-1908.
 American Bar Association Reports, 32 vols. 1878-1908.
 American Jurist, 28 vols. 1829-1843.
 American Law Journal (Hall), 6 vols. 1808-1817.
 American Law Magazine, 6 vols. 1843-1846.
 American Law Register, 55 vols. (Current). 1852-1907.
 Central Law Journal, 66 vols. (Current.) 1874-1908.
 Chicago Legal News, 39 vols. (Current.) 1869-1906.
 City Hall Recorder (Rogers), 6 vols. 1816-1820.
 Cleveland Law Record. 1856-1857.
 Colorado Law Reporter, 4 vols. 1880-1884.
 Columbia Law Review, 7 vols. (Current.) 1901-1907.
 Copp's Land Owner, 18 vols. in 6. 1874-1892.
 Cornell Law Journal, 1 no. only published. June, 1894.
 Counsellor, 5 vols. 1891-1896.
 Criminal Law Magazine, 18 vols. 1880-1896.
 Green Bag, 20 vols. (Current.) 1889-1908.
 Griffith's Law Register, 2 vols. 1822.
 Harvard Law Review, 21 vols. (Current.) 1887-1908.
 Insurance Law Jour., 37 vols. (Current.) 1871-1908.
 Journal of Law School, Taylor. 1822.
 Kentucky Law Reporter, 32 vols. 1880-1890.
 Law, The, Chicago, 2 vols. 1889-1890.
 Law Book News, 2 vols. 1895-1896.
 Law Central. 1881.
 Law Reporter, Boston, 27 vols. 1839-1866.
 Livingston's Law Magazine, 3 vols. 1853-1856.
 Michigan Law Review, 6 vols. (Current.) 1902-1908.
 National Bankruptcy Register, 19 vols. 1867-1880.
 New Jersey Law Journal, 31 vols. (Current.) 1878-1908.
 New York Law Review. 1885.
 New York Legal Observer, 12 vols. 1842-1854.
 Pacific Coast Law Journal, 12 vols. 1876-1884.
 Pennsylvania Law Journal, 11 vols. 1842-1852.
 Quarterly Law Review (Richmond), vol. 1. 1860.
 Railway and Corporation Law Journal, 12 vols. 1887-1893.
 Reporter, The, 24 vols. 1876-1887.
 San Francisco Law Journal. 1877-1878.
 Southern Law Review, 11 vols. 1872-1883.
 Southern Law Review, N. S. 1901-1902.
 Virginia Law Journal, 17 vols. 1877-1893.
 Western Law Journal 10 vols. 1843-1853.
 Western Law Monthly, 5 vols. 1859-1863.

English, Scotch, Irish and British Colonial.
 Canadian Law Times, 27 vols. (Current.) 1881-1907.
 Cape Law Times Reports, 16 vols. (Current). 1891-1906.
 Gray's Inn Journal, 2 vols. 1756.
 Juridical Review, Scotch, 20 vols. (Current). 1889-1908.
 Jurist or Quarterly Journal, 4 vols. 1827-1833.
 La Themis, Quebec, 5 vols. 1879-1883.
 Law Quarterly Review, 24 vols. (Current.) 1885-1908.
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 Scots Law Times, 15 vols. (Current.) 1892-1908.
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 Solicitors' Journal, 51 vols. (Current.) 1857-1874.

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Commercial Law. Archiv für Deutsches Wechselrecht und Handelsrecht. Siebenhaar. 18 vols., New Series, 6 vols. Leipzig. 1851-1874.
Prussia: Decisions. Entscheidungen des Königlichen Geheimen Ober-Tribunals. Begun by Simon & Strampff, finished by Sonnenschmidt, Clauswitz & Hahn. 83 vols. Berlin 1837-1879. (With General Index to vols. 1-80).
Saxony: Decisions. Archiv für Civilrechtliche Entscheidungen der Königlichen Sächsischen Justizbehörden. Wengler & Francke. 6 vols. and New Series, 11 vols. Leipzig. 1874-1890; with Index to the N. S.
Old Codes Reprinted. Códigos Españos Concordados y Anotados. 2a Edición. (San Martín, Editor), 11 vols., folio. Madrid. 1872-73.

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THE GERMAN CIVIL CODE.

American Edition.

We are permitted to announce the early publication of a translation of the German Civil Code (*Bürgerlichesgesetzbuch*), made by Walter Loewy of San Francisco (a graduate of Pennsylvania University Law Department and of Heidelberg University) under the auspices of a committee consisting of Prof. William Draper Lewis, Dean of the Pennsylvania Law School, and William W. Smithers and Charles Wetherill representing the Pennsylvania Bar Association, and the Law School of the University of Pennsylvania.

The translation of the Code will be accompanied by a historical introduction by William W. Smithers; an analytical introduction by Walter Loewy; full notes by Mr. Loewy and one of the members of the committee; a list of the important Statutes of the German Empire; analyses of the divisions and titles of the code and the introductory statute; and an Index.

The whole will form a volume of about seven hundred pages; price \$5.00. It will probably be ready for delivery about November 1st, and we solicit advance orders.

Although the North German Bund enacted laws as early as 1866, the legal life of Germany as a nation began on the consolidation of the Empire in 1871. Before that date (except as to the Commercial Code of the Zollverein) each German state had its own courts and laws, often widely different.

From 1871 to 1879, although an imperial Supreme Court had been constituted, and was rendering decisions, the old state laws remained in force. In 1879, Codes of Procedure and a Penal Code were adopted for the whole Empire. The Civil Code was meanwhile progressing under commissions, the first of which was appointed in 1876. In 1896, a "Bürgerlichesgesetzbuch" was enacted,—not to take effect, however, until January 1, 1900. The present legal system of Germany was thus fully launched at the beginning of the present century.

The code thus adopted by so great a nation, presenting both a compromise and development of the legal systems of so many kindred but previously independent states; and care-

fully formulated by a commission of the most learned jurists of the Empire,—presents to the students of modern law as interesting a document as was the Code Napoleon a hundred years ago, or the *Corpus Juris* in the days of Justinian.

The English edition, translated two years ago by Chung Hui Wang, was praised for its accuracy; but this translation, made under such auspices, and with such full notes by leading American legal scholars, will attract still wider attention, and commend itself to all students of comparative law and legislation.

VIRGINIA COLONIAL DECISIONS.

We are now printing, and shall have ready in a few days, two volumes bearing this title, which will be of especial value to Virginians, but will also interest all Americans who read history and care for the beginnings of things.

The beginning of law reporting in this country, so far as existing records show, was in Virginia, where Sir John Randolph, Edward Barradall and William Hopkins kept memoranda in the nature of reports of the cases in which they were engaged between the years 1728 and 1743. These reports were apparently copied from time to time in manuscript and used for study and precedent by the bar of that and the subsequent generation.

The reports of Hopkins have vanished, but the manuscripts of Randolph and Barradall have been preserved in four copies, one in the library of Congress, one at Harvard Law School, two at Richmond in the libraries of the Court of Appeals and the Virginia Historical Society.

From one of these manuscripts (or perhaps from other manuscripts since lost) Thomas Jefferson extracted a few cases which were published in the thin volume known as "Jefferson's Reports." The rest of the cases have never hitherto been printed. It seemed to the publishers that these prototypes of a literature of American reporting which comprises thousands of printed volumes, should be put in permanent form and placed on our shelves by the side of their numerous progeny. After consulting with the judges of the Court of Appeals, and the professors of the Law School at the University of Virginia as to the best editors for such an enterprise, the pub-

VIRGINIA COLONIAL DECISIONS.

lishers were so fortunate as to get the State law librarian, W. W. Scott, to transcribe the manuscript for the printer, and R. T. Barton of Winchester, Va., to edit and annotate the reports.

Mr. Scott devoted to his part of the work minute care, intelligent criticism and the enthusiasm of an antiquarian. Mr. Barton, one of the leaders of the Virginia bar, was well fitted for the editorial work through familiarity with local law gained in the compilation of his two standard treatises on Common Law and Chancery practice. He had also the enthusiasm of the antiquary, the patience of the historian, and the pride of a Virginian in the early greatness of his state and its citizens.

The work appears in two volumes, the first containing the Introduction and the Reports of Sir John Randolph; the second, Barradall's Reports.

The reports are printed with the original phraseology, spelling and abbreviations; with only such notes as are rendered necessary by obscurities or omissions. They are too old to be largely useful as precedents, but they have great historical interest, and may throw light on the origin and development of some of the points of American law and practice.

The Introduction is divided into ten chapters. The first chapter, entitled "The Books," gives an account of the various existing manuscripts and their authenticity. The other chapters sketch the times and conditions under which the reporters wrote, beginning with the first settlement of Virginia, and tracing the development of society, business and litigation down to the generation which just preceded the Revolution. The whole Introduction, taken with the Reports, gives a vivid picture of Colonial life, differing from any previous presentation.

The second chapter, "The Land," is an interesting résumé of early settlements on the coast, gradual extension up the great rivers and their affluents, and the later opening of the western valleys.

Chapter III, "The People," depicts the character of the early immigration and their followers—the first colony led by Capt. John Smith, the cavaliers driven from England during the Commonwealth, the Huguenot arrivals of a later period, the Scotch-Irish and German settlers of the "Valley." A graphic description is given of their mode of life.

Chapter IV deals with "The Government,"

the Council of the London Company, the General Assembly (Council and House of Burgesses), the successive Governors and their vagaries, the local commanders and commissioners.

Chapter V discusses "The Church," showing how the church and clergy affected society, law, legislation and litigation in the early days, and how the Rev. James Blair, commonly known as "Commissary Blair," impressed himself on his generation.

Chapter VI, "The City," traces the growth of the capital city of Virginia, Williamsburg, "city by brevet," a flourishing and picturesque town of a thousand inhabitants. Its architecture, its vicissitudes, its gayeties, are described with a light touch.

Chapter VII deals with Education. Sir William Berkeley, in 1671, "thanked God that there were no free schools nor printing" in Virginia, but Mr. Barton shows how the rich planters educated their children, and how the vestries provided for educating the poor. An account is given of the establishment in 1692 of William and Mary College, "for the education of white youth, the training of ministers and the conversion of the Indians," and its subsequent growth.

Chapter VIII comes to "The Law and the Lawyers." This is a very interesting chapter to the legal profession, showing the gradual adoption, subjects and scope of the Virginia Statutes, and the status of the bar. This was at one time precarious. In 1658 it was "proposed in the Assembly, whether a regulation or a total ejection of lawyers?" To this query the Burgesses, largely planters, answered, "Ejection." But the lawyers managed to remain.

This chapter also gives personal sketches of practitioners at the bar in the time of Barradall and Sir John Randolph and concludes with a list of the law-books they used, taken from inventories of their libraries.

Chapter IX covers "The Courts,"—"Monthly Courts," "County Courts," "Quarter Courts," "Courts of Hustings," "Courts of Oyer and Terminer," "the General Court," "the General Assembly," "the Court of Vice-Admiralty,"—with their jurisdiction and procedure.

Chapter X deals with "The Reporters and their Reports," comprising the biographies of Barradall and Sir John Randolph and a discussion of the cases reported by them.

The whole Introduction is so pervaded by a spirit of enthusiastic interest in the reports, the reporters, their era, and in everything colonial, Virginian and American, that it makes mighty interesting reading. Many who buy this work will hesitate whether to take it home and shelve it in their private libraries, or to place it at the front of the set of Virginia Reports on their office shelves.

Librarians will catalogue "Virginia Colonial Decisions" both under "Law" and under "American Colonial History."

KORKUNOV'S THEORY OF LAW.

The *raison d'être* of this excellent translation of a noteworthy book is explained in the preface by the editor, Prof. W. G. Hastings of Nebraska University:

In the year 1905 there came into my hands a catalogue of a Paris publisher in which was advertised an International Library of Public Law. The English and American works were excellent selections. My attention was attracted to the fact that these French publishers of "international" books, in whose own country Boistel's work had lately appeared, and where Fouillée and Renouvier were still writing, had taken for their work on General Theory of the Law that of a Russian writer of whom I had never heard. The whole field of English, German and Italian theorists seemed to be passed by, in thus going outside of France, by these French publishers who were evidently seeking the best works in their several departments. The curiosity thus excited resulted in an order for the French version.

It was found to have a preface by Prof. Larnaude of the University of Paris, sketching briefly the development of legal theory in Western Europe and England in late years, and justifying the selection of Prof. Korkunov's work, as representing most fully the tendencies of that development, notwithstanding the "*œuvres maitresses*" in France, Germany, England and Belgium, which the Paris professor cited. The book, on examination, seemed to justify its selection, and Prof. Larnaude's declaration that it is not a "simple reflection of German science," but that "it has originality of its own, and above all a surprising clearness of form and expression."

[The editor then explains that he became convinced that an English translation ought to be made, and that he might undertake the work, with competent assistance.]

Free use has been made of M. Tchernoff's French version, and I have had the assistance of my instructor, Mr. Felix Newton, a born Russian, without whom this rendering would never have been attempted, but the responsibility for the English form of the work is my own. It is hoped that no injustice is done to the distinguished Russian teacher or to his work, the first Russian edition of which was published in 1887.

The author (Korkunov) was at that time a professor in the University of St. Petersburg, having in 1878 succeeded Prof. Redkin to the chair of "Legal Encyclopedia." He had been previously a teacher of the same subject in the Imperial Alexandrian Lyceum at St. Petersburg. In 1889, on the death of Prof. Gradowsky, he succeeded to the chair of "Public Law" in the University of St. Petersburg. This he held till his death in 1902 at the age of forty-nine. His distinction in his own country rests largely on his Russian Public Law, of which the sixth edition by his surviving colleagues appeared in 1908.

A Russian Biographical Dictionary says

that his work "is distinguished by penetrating analysis and abundant originality of view."

Of his General Theory of Law, which is here translated, an eighth edition was published in 1908, which I have not seen. The one used in making this translation was the sixth, published in 1904, the first after his death, and stated to be "without change."

Besides its interest as the authoritative statement of the head of legal instruction in the Russian Empire at the close of the XIX century, the book seems fully to deserve Prof. Larnaude's claim for its originality and clearness, above given. The author's studies and teaching while holding the chair of "Encyclopedia of Law" made him familiar with the writings, ancient and modern, of the theorizers of all nations. He seems to have been most strongly drawn to English writers and thinkers on law and government, especially J. S. Mill.

His point of view is certainly much less individualistic than theirs. He seeks to harmonize their conceptions with his own inclination to see all problems from the point of view of society instead of that of the individual. He is permeated with the evolutionary philosophy and tries to bring social and legal development within it. To what extent he has succeeded will, of course, be a matter of controversy.

He has at all events given a singularly lucid, though condensed, perhaps lucid because condensed, statement of the various views which have prevailed as to the elements of law and its functions in human society, and has added many acute observations of his own. His work would seem to go far towards justifying the recent declaration of a learned writer, Brückner, in his History of Russian Literature, that if the Russians have no great philosophers they have great legislators as well as great theologians.

Prof. Larnaude, in his preface to the French version, says that:—

"Korkunov's General Theory of law contains in truth parts of rare vigor and originality. As to natural law, the origin of law, legal norms, the distinction between public and private law, the theory of the three powers, moral persons, the nature of society and of the state, and a good many other questions, there will not simply be found, formulated with great precision and uncommon force of reasoning, the chief theories which are at the bottom of universal legal thought. There will be found, too, Russian theories, often very ingenious. Russian thought is not, even in the legal domain, though profoundly influenced by German science, a mere reflection of it. From these different points of view Prof. Korkunov's book will be read I think with very great interest by all those who for the first time penetrate into Russian juridical thought."

It is hoped that in its English form the book will inspire some such interest in others as its Russian and French forms have in the translator.

Korkunov's Theory of Law is published in one volume for \$3.50.

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See announcement in *Leg. Bib.* for January, 1910.

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Wood & Ritchie's Digest of (English) Cases Overruled, Approved or Modified. 3 vols. 1907. \$25.00.

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Wessel's History of the Roman-Dutch Law, 1908. Grahamstown, South Africa. Cloth. \$10.00.

FOREIGN LAW IN FOREIGN TONGUES.

[Switzerland]. Schweizerisches Zivilgesetzbuch—Code Civil Suisse—Codice Civile Svizzero.

The Swiss Code adopted Dec., 1907, and printed in three languages, [Belgian]. Les Codes et les Lois Spéciales les plus Nouvelles, Par Servais et Mechelynck Oct., 1907.

[Holland]. De Nederlandsche Wetboeken. J. A. Fruin. Vifde Druk. 1905.

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TOO FRANK FOR ADVOCACY.

In writing us about annotations on the manuscript of Virginia Colonial Decisions, the editor, R. T. Barton, Esq., of Winchester, Virginia, makes this personal comment, which will interest the older Virginia lawyers.

"A note by such a man as William Green, would be considered by all Virginia lawyers as of great value and interest. Mr. Green was the most learned lawyer, perhaps, that the state ever produced. The joke on him used to be, that his bibliographical zeal always led him to produce all the authorities, those against as well as those for the positions he wished to maintain, and that he lost many cases which he would otherwise have won, by discovering and disclosing precedents that neither his adversaries nor the court would otherwise have found.

"Mr. Conway Robinson was a very similar man and his connection and Green's with these manuscripts, give them much of the interest with which I think the lawyers will regard them."

DOCUMENTS OF LIBERTY.

[From Prof. Stimson's *Introduction to the Law of the Federal and State Constitutions*].

And there is another important practical difference between the English Constitution and our own. Theirs in the main is composed of limitations upon the Executive. Ours limits (what is today far more important) the legislative assemblies as well. In theory still, the English Constitution is a pact between the King and Parliament, which is sovereign and brooks no constitutional control. Ours is the written will of the people, who are with us sovereign, addressed to their servants, the three branches of government, and defining and delimitating their powers among themselves. Both constitutions embody the frame of government; but in this the English is much simpler, for it provides but for the supremacy of Parliament, the power of the Commons in money matters, and the limitations imposed upon the king. Even the Cabinet, that committee of the House of Commons which now rules the nation, is not mentioned in the English Constitution. But it was necessary for our Constitution, besides setting up the frame of government, and that more complicated and explicit, as befits a Republic also to set forth, in words so exact as to be undoubted, both the powers and the prohibitions given to Congress and the division of power between the Federal government and the States.

Most important in our Constitution today is that portion which is not the frame of government, but the liberties of the people; the part most neglected by historians and in treatises upon constitutional law. In this great domain the English and American Constitutions are practically identical; only that the American Constitutions, Federal and State, express in many words what the English Constitution puts in a very few, while of course the English restraint upon Parliament, though equally (some think more) effective, is a moral one. The growth of words in which these cardinal principles are swathed is curiously shown in Book II of this work. Besides we have, in our Federal Constitution, not only to secure these liberties to the individual as against the Federal government, but in some cases against the State governments as well; and our State Constitutions, which, after all, with us are the charters of the people's liberties in the ordinary relations of mankind, seek to protect the individual also against the State Legislatures.

Error Corrected.—On 11 Leg. Bib N. S. 3, we advertised "The Law of Evidence, by a late learned Judge. London, 1756." We added our own query "first English Edition of Gilbert on Evidence?"

Prof. J. W. Wigmore of Chicago, our leading authority on Evidence, writes us, "This is probably not the first English, or any, edition of Gilbert on Evidence, but more likely the first anonymous edition of the book by Buller, which afterwards became Buller on *Nisi Prius Trials*."

THE LEGAL AUTHOR'S TASK.

In the preface of Ram on Assets, we find this excellent statement of the difficulties of a legal author:—

"The task of a law writer can very rarely be light, if he undertakes personally to read the cases reported, and to state the effect of them. To ascertain the decision in a single case very frequently requires much patient thought and investigation; and it will readily therefore be apprehended, that to gather the law that results from a series of cases, beginning perhaps at a distant period, and most usually determined in different Courts, and by judges of unequal eminence, is sometimes impracticable, and is constantly exposed to the danger of error. The authority of a case often depends on the Court in which, or the learning of the judge by whom, it was decided. The authority of a case may, moreover, be strengthened by the circumstance that it was determined by a 'strong' Court, by a Court composed of judges of great reputation, or by, or with the concurrence of, a single judge distinguished for his learning; and be weakened by the circumstance that the Court were equally divided, or were not unanimous. . . . One authority, or one series of authorities, is contradicted by another; a modern case and one determined some years ago, or even two recent cases, are found to be much, if not directly at variance; and cases that for years have uniformly flowed in a particular direction, are not infrequently met by an opposing stream, strong enough to stem the older current."

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But if it cannot, then the equitable plea is no bar to the defendant coming to a court of equity, subject, however, to the costs of the plea being controlled by the court of equity. *Ib.*

A court of equity will restrain an action for damages where the defence relied upon is an alleged agreement between the parties for the performance of certain acts to which a court of law cannot give effect. *Ib.*

Equitable Plea not Pleading.—The 17 & 18 Vict. c. 125, s. 83, giving a right to plead an equitable defence, is only permissive, and not compulsory; and a defendant who has not exercised his option of pleading an equitable plea, may come for an injunction to restrain the action, as he might have done before that act. *Gompertz v. Pooley*, 4 Drew. 448; 28 L. J., Ch. 484; 5 Jur. (N.S.) 261; 7 W. R. 275. *S. P., Kinsford v. Swinford*, 28 L. J., Ch. 413; 5 Jur. (N.S.) 261; 7 W. R. 215.

Proceedings which would interfere with or determine Pending Suit.—In a suit by three shareholders against the directors to restrain proceedings for recovering the amount of certain calls, an injunction had been granted upon terms of plaintiffs paying the amount into court. The directors' solicitor, a shareholder, obtained judgment by default against the company for his bill of costs, and commenced proceedings against two of the plaintiffs for the amount due:—Held (following *Taylor v. Hughes*, 2 Jo. & Lat. 24) that, the defendant (the solicitor) not having denied that the proceedings had been taken for the purpose of harassing and impeding the plaintiffs in their suit, the plaintiffs were entitled to an injunction to restrain proceedings against them on the judgment, which proceedings would greatly interfere with, if not wholly determine, the pending suit. *Horn v. Kilkenny, &c. Ry.*, 1 Kay & J. 399; 24 L. J., Ch. 241; 3 W. R. 226.

Action against Executors.—If a cause for the administration of assets has been heard for further directions, and the executors have paid their balances into court, an injunction will be granted to restrain an action against the executors for breach of a covenant in a lease granted to their testator, and the master will be directed to ascertain the damages. *Sutton v. Mashiter*, 2 Sim. 513.

Action at Law pending Suit for same Matter.—A court of equity in which a suit was pending would have stopped an action for trespass *vi et armis*. *York Corporation v. Pilkington*, 2 Atk. 302; 9 Mod. 273.

Injunction granted on Terms.—See *Irving v. Harrison*, 3 L. J. (O.S.) Ch. 48.

Criminal Proceedings.—Whilst suits in equity are depending, plaintiffs indict defendant's agent at the sessions where they themselves are judges, for a breach of the peace. Order made to restrain plaintiffs from proceeding at the sessions till the hearing of the cause and further order. *York Corporation v. Pilkington*, 2 Atk. 302; 9 Mod. 273.

There is no restraining power in courts of equity over criminal prosecutions. *Ib.*

Where bill is brought to grant possession, if

after that plaintiff prefers indictment for forcible entry, this court will stop proceedings upon such indictment. *Ib.*

No general jurisdiction in equity to enjoin or regulate proceedings upon indictment, but circumstances may give it; as where prosecuted by relators in an information as plaintiffs, they are subject to control by order personally affecting them; but not the defendants. *Att.-Gen. v. Cleaver*, 18 Ves. 211.

Although there may be cases in which the court of chancery will interfere to restrain criminal proceedings taken by a plaintiff in equity against the defendant to the suit in respect of the matters to which the suit relates, yet the court will not so interfere where the remedies in the proceedings in the criminal court are for a purely criminal charge. *Saull v. Browne*, 44 L. J., Ch. 1; L. R. 10 Ch. 64; 31 L. T. 493; 23 W. R. 50; 13 Cox C. C. 30.

Unless the cases raised and the objects sought are identical, the court will not prevent a plaintiff in the court of chancery from proceeding in a criminal court against the defendants to the suit in chancery: *Ib.*

Held, that a remedy in the police court, which was the personal punishment of the defendants, was so distinct from a remedy in chancery, which was the recovery of property, that the court of chancery would not restrain the criminal proceedings, and that the discretion to stay such proceedings rested with the magistrates. *Ib.*

A court of equity has no jurisdiction to restrain criminal proceedings for the recovery of a penalty imposed by an act of parliament for a breach of its enactments. *Kerr v. Preston Corporation*, 46 L. J., Ch. 409; 6 Ch. D. 463; 25 W. R. 264.

2. RESTRAINING CRIMINAL AND QUASI-CRIMINAL ACTS.

Though the court of chancery has no jurisdiction to prevent the commission of acts which are merely criminal or illegal, yet its function is to protect property, and therefore it will restrain acts which are of a criminal nature, if they are also of such a nature as to injuriously affect rights of property. *Springhead Spinning Co. v. Riley*, 37 L. J., Ch. 889; L. R. 6 Eq. 551; 19 L. T. 64; 16 W. R. 1138.

Certain members of a trade union, employed at a spinning company's mill, took offence at a reduction of their wages and left their masters' service. The association then posted in the district, and advertised in the local papers, a placard or notice, which was in substance a warning to all workmen not to seek to renew their work at the mill until the dispute was settled. The company filed a bill to restrain the printing and publishing of the notices, charging that they were part of a scheme to prevent persons, by threats and intimidation, from hiring themselves to the plaintiffs, and that persons had, in fact, been so intimidated; that the plaintiffs' business was materially injured thereby, the value of their goodwill depreciated, and the corpus of their property irreparably damaged:—Held, that the acts of intimidation complained of, though punishable as a statutable offence, were yet within the jurisdiction of equity, as tending to the destruction of property. *Ib.*

Distress by a Stranger.—Defendant, having assigned leasehold estate to plaintiff, afterwards brought an action of ejectment and was non

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(See pages 4 and 5.)

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Arrest	<i>Voorhees</i>
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"The total expense to a suitor of carrying an action through an assize trial, or nisi prius trial, in the King's Bench Division may roughly be put at about £100; but if expensive counsels are engaged, it may reach thousands. The expense of maintaining witnesses, it may be for a week or more, in readiness for the case to come on, is also a most serious item. Country witnesses must be kept at the assize town, or in London, in readiness for the hearing. The cost of the summary process called an originating summons, in Chancery, may be estimated at, say £30, assuming that it goes into court, and is not disposed of by the master. Regular actions in chancery are generally of an administrative character, and the expense may be looked at in the light of a payment for the cost of judicial administration, and may vary to any extent. They are, besides, frequently ordered to be paid out of particular funds, the subject of dispute. The costs in admiralty are roughly comparable with those in the King's Bench Division: but of course on a seizure the Marshal must be paid. The costs of an appeal to the Appellate division of the Supreme Court may be as little as £20 a side. Those of an appeal to the House of Lords are almost prohibitive."

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Law Quarterly Review, July, 1909. Edited by Sir Frederick Pollock. Subscription price \$3.00 per annum. Single number, \$1.25.

Notes.

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The Constitution of the Isle of Man. By R. D. Farrant.

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Book Reviews.

The Juridical Review, July, 1909, Edinburgh. Subscription price \$3.50 per annum. Single number, \$1.00.

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The Law Magazine and Review, August number, 1909. Subscription price \$3.75 per annum. Single number, \$1.25.

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[From the Preface to *Mews' Digest of English Case Law*].

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